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No. 2830

United States
Circuit Court of Appeals

For the Ninth Circuit.

Apostles on Appeal.
(IN TWO VOLUMES.)

THE AMERICAN SCHOONER "HALCYON," Her Tackle, Apparel, Machinery, Boats, Furniture, Appurtenances, Cargo, and Freight Money, and J. A. T. OLSON, Master and Claimant,

Appellants,

vs.

INTER-ISLAND STEAM NAVIGATION COMPANY, LIMITED, a Hawaiian Corporation, Owner of the Steamer "NIIHAU," for Itself, the Officers and Crew of Said Steamer and Other Servants of Said Owner,

Appellee.

VOLUME I.
(Pages 1 to 224, Inclusive.)

Upon Appeal from the United States District Court
for the Territory of Hawaii.

Filed

SEP 26 1916

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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Names and Addresses of Attorneys.

For Libelants: Inter-Island Steam Navigation Company, Limited:

SMITH, WARREN & SUTTON, Rooms #206—
210 Bank of Hawaii Building, Honolulu,
Hawaii.

For Libelee: The American Schooner “Halcyon,”
Her Tackle, etc.:

J. W. RUSSELL, Hilo, Island of Hawaii, Terri-
tory of Hawaii. [1*]

*In the District Court of the United States in and
for the District and Territory of Hawaii.*

INTER-ISLAND STEAM NAVIGATION CO.,
LTD., an Hawaiian Corporation, Owner of the
Steamer “NIIHAU,” for Itself, the Officers
and Crew of Said Steamer, and Other Servants
of Said Owner,

Libelant,

vs.

THE AMERICAN SCHOONER “HALCYON,”
Her Tackle, Apparel, Machinery, Boats, Fur-
niture, Appurtenances, Cargo and Freight
Money,

Libelee. [1A]

Clerk’s Statement Under Admiralty Rule 4.

TIME OF COMMENCEMENT OF SUIT.

January 17, 1914: Verified Libel was filed and
Monition was issued to the United States Marshal for
the District of Hawaii.

*Page-number appearing at foot of page of original certified Apostles on
Appeal.

NAMES OF ORIGINAL PARTIES.

LIBELANT: Inter-Island Steam Navigation Company, Limited, an Hawaiian corporation, owner of the steamer "Niihau," for itself, the officers and crew of said steamer and other servants of said owner.

LIBELEEE: The American schooner "Halcyon," her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money.

CLAIMANT: J. A. T. Olsen, Master of the American schooner "Halcyon," her tackle, etc.

DATES OF FILING OF PLEADINGS.

January 17, 1914: Libel.

January 20, 1914: Claim of J. A. T. Olsen, Master.

February 24, 1914: Answer.

ATTACHMENT OF PROPERTY AND PROCEEDINGS THEREUNDER.

January 17, 1914: Monition was issued and delivered to the United States Marshal for the District of Hawaii. Said Monition was thereafter returned into court with the following return by the said marshal. "In obedience to the within Monition, I attached the American schooner 'Halcyon,' etc., therein described, on the 19th day of January, 1914, and have given due notice to all persons claiming the same that this Court will, on the 23d day of January, 1914 (if that day be a day of jurisdiction, if not, on the next day of jurisdiction thereafter), proceed to trial and condemnation thereof, should no claim be interposed for the same. (Sgd.) E. R. Hendry, United States Marshal, Honolulu, January 20th, 1914." [2]

January 20, 1914: Claim filed by J. A. T. Olsen, Master of said schooner "Halcyon," her tackle, etc., with a bond for the release of the said American schooner "Halcyon," in the sum of Twenty-one Thousand Dollars (\$21,000), which amount is double the amount of the Libel, as per section 941 of the Revised Statutes of the United States, whereupon a release to the United States Marshal for the District of Hawaii was issued by the clerk of said Court.

TIME WHEN TRIAL WAS HAD.

The above-entitled cause came on regularly for trial in the United States District Court for the Territory of Hawaii, before the Honorable Sanford B. Dole and the Honorable Charles F. Clemons, Judges of said District Court on the following days, to wit: January 31, 1914; February 2, 1914; February 3, 1914; August 6, 1915; August 17, 1915; August 18, 1915; August 19, 1915; September 14, 1915.

At the trial of said cause the following witnesses were examined *viva voce* and gave their evidence in open court before the said Judges of said court, to wit: Witnesses called on behalf of the Libelants: Frank Carlson, Moki, Manuel Lacerdo, Kaimi, Ralph Balding, R. W. Filler, H. P. Morton, W. F. Thompson, Capt. W. C. Bruhn, F. Mosher, David Hao, Jr., A. S. Cantin and L. Paulos. Witnesses called on behalf of the libelee: Fred. Sach, J. F. Joseph, Nels Piersen, William Clover, J. A. T. Olsen, John D. Easton, A. Duvell, E. F. Nichols.

December 6, 1915: Decision by Dole, J.

December 30, 1915: Decree, signed by Clemons, J.

4 *The American Schooner "Halcyon" et al. vs.*

December 31, 1915: Notice of Appeal.

January 4, 1916: Bond for Costs on Appeal.

January 29, 1916: Assignment of Errors. [3]

**Clerk's Certificate to Statement Under Admiralty
Rule 4.**

United States of America,
Territory of Hawaii,—ss.

I, George R. Clark, Clerk of the United States District Court for the Territory of Hawaii, do hereby certify the foregoing to be a full, true and correct statement showing the time of commencement of the above-entitled cause; the names of the original parties thereto and those who have become parties, before the appeal; the several dates when the respective pleadings were filed; an account of the proceedings showing attachment of the said vessel and her release under bonds; the time when the trial was had and the names of the Judges hearing the same; the date of entry of the final decree and the date when the notice of appeal was filed, in said case.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court this 10th day of July, A. D. 1916.

[Seal] GEORGE R. CLARK,
Clerk U. S. District Court, Territory of Hawaii. [4]

*In the District Court of the United States in and
for the District and Territory of Hawaii.*

ADMIRALTY—NO. 139.

INTER-ISLAND STEAM NAVIGATION CO.,
LTD., an Hawaiian Corporation, Owner of the
Steamer “NIIHAU,” for Itself, the Officers
and Crew of Said Steamer, and Other Servants
of Said Owner,

vs.

THE AMERICAN SCHOONER “HALCYON,”
Her Tackle, Apparel, Machinery, Boats, Fur-
niture, Appurtenances, Cargo and Freight
Money,

**Order Extending Time to and Including April 15,
1916, to File Apostles on Appeal.**

Good cause appearing therefor, it is hereby ordered that the American schooner “Halcyon,” etc. libelee, in the above-entitled cause, may have to and including the 15th day of April, — 1916, within which to prepare, serve and file their assignment of errors and other appeal papers on appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the final decree heretofore made and entered in said cause by the District Court of the United States for the Territory of Hawaii, and also may have to and including said 15th day of April, —, 1916, within which to procure to be filed in the said United States Circuit Court of Appeals for the Ninth Circuit the apostles on appeal from said final decree

6 *The American Schooner "Halcyon" et al. vs.*

in said cause certified by the clerk of said District Court.

Dated Honolulu, T. H., March 16, 1916.

CHAS. F. CLEMONS,
Judge U. S. District Court.

[Endorsed]: #139. In the U. S. District Court, Territory of Hawaii. Inter-Island Steam Navigation Co. vs. The American Schr. "Halcyon," etc. Order Extending Time. Filed Mar. 16, 1916. Geo. R. Clark, Clerk. By Wm. L. Rosa, Deputy Clerk. [5]

[Title of Court and Cause.]

**Order Extending Time to and Including May 15,
1916, to File Apostles on Appeal.**

Good cause appearing therefor, it is hereby ordered that the American schooner "Halcyon," etc. libelee, in the above-entitled cause, may have to and including the 15th day of May, A. D. 1916, within which to prepare, serve and file their assignment of errors and other appeal papers on appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the final decree heretofore made and entered in said cause by the District Court of the United States for the Territory of Hawaii, and also may have to and including said 15th day of May, A. D. 1916, within which to procure to be filed in the said United States Circuit Court of Appeals for the Ninth Circuit the apostles on appeal from said final decree in said cause certified by the clerk of said District Court.

Dated Honolulu, T. H., April 14, 1916.

CHAS. F. CLEMONS,
Judge U. S. District Court, Territory of Hawaii.

[Endorsed]: #139. In the U. S. District Court, Territory of Hawaii. Inter-Island Steam Navigation Co. vs. The American Schooner "Halcyon," etc. Order Extending Time. Filed Apr. 14, 1916. George R. Clark, Clerk. ———, Deputy Clerk.
[6]

[Title of Court and Cause.]

**Order Extending Time to and Including June 15,
1916, to File Apostles on Appeal.**

Good cause appearing therefor, it is hereby ordered that the American schooner "Halcyon," etc. libelee, in the above-entitled cause, may have to and including the 15th day of June, A. D. 1916, within which to prepare, serve and file their assignment of errors and other appeal papers on appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the final decree heretofore made and entered in said cause by the District Court of the United States for the Territory of Hawaii, and also may have to and including said 15th day of June, A. D. 1916, within which to procure to be filed in the said United States Circuit Court of Appeals for the Ninth Circuit the apostles on appeal from said final decree in said cause certified by the clerk of said District Court.

Dated Honolulu, T. H., May 15th, 1916.

CHAS. F. CLEMONS,
Judge U. S. District Court, Territory of Hawaii.

[Endorsed]: #139. United States District Court, Territory of Hawaii. Inter-Island Steam Navigation Co., Ltd., vs. Amer. Schr. "Halcyon," etc. Order Extending Time. Filed May 5, 1916. George R. Clark, Clerk. By Ray B. Rietow, Deputy Clerk. [7]

[Title of Court and Cause.]

Order Extending Time to and Including July 15, 1916, to File Apostles on Appeal.

Good cause appearing therefor, it is hereby ordered that the American schooner "Halcyon," Libelee, in the above-entitled cause, may have to and including the 15th day of July, A. D. 1916, within which to prepare, serve and file their assignment of errors and other appeal papers on appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the final decree heretofore made and entered in said cause by the District Court of the United States for the Territory of Hawaii, and also may have to and including said 15th day of July, A. D. 1916, within which to procure to be filed in the said United States Circuit Court of Appeals for the Ninth Circuit the apostles on appeal from said final decree in said cause certified by the clerk of said District Court.

Dated Honolulu, Hawaii, June 15, 1916.

CHAS. F. CLEMONS,
Judge U. S. District Court, Territory of Hawaii.

[Endorsed]: No. 139. In the District Court of the United States for the Territory of Hawaii. Inter-Island Steam Navigation Co., Ltd., Libellant, vs. The

American Schooner "Halcyon" etc., Libelee. Order.
Filed June 15, 1916. George R. Clark, Clerk.
By Wm. L. Rosa, Deputy Clerk. [8]

[Title of Court and Cause.]

**Order Extending Time to and Including July 30,
1916, to File Apostles on Appeal.**

Good cause appearing therefor, it is hereby ordered that the American schooner "Halcyon," etc., libelee, in the above-entitled cause, may have to and including the 30th day of July, A. D. 1916, within which to prepare, serve and file their assignment of errors and other appeal papers on appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the final decree heretofore made and entered in said cause by the District Court of the United States for the Territory of Hawaii, and also may have to and including said 30th day of July, A. D. 1916, within which to procure to be filed in the said United States Circuit Court of Appeals for the Ninth Circuit the apostles on appeal from said final decree in said cause certified by the clerk of said District Court.

Dated Honolulu, Hawaii, July 10, 1916.

CHAS. F. CLEMONS,

Judge U. S. District Court, Territory of Hawaii.

[Endorsed]: No. 139. In the District Court of the United States for the Territory of Hawaii. Inter-Island Steam Navigation Co., Ltd., Libelant, vs. The American Schooner "Halcyon" etc., Libelee. Order.

Filed Jul. 10, 1916. George R. Clark, Clerk.
———, Deputy Clerk. [9]

[Title of Court and Cause.]

Libel.

To the Honorable SANFORD B. DOLE, Judge of
the United States District Court in and for the
District and Territory of Hawaii:

The libel of the Inter-Island Steam Navigation Company, Limited, a corporation duly organized and existing under and by virtue of the laws of the Territory of Hawaii, owner of the steamer "Niihau," whereof W. C. Bruhn is master, against the American schooner "Halcyon," whereof J. A. T. Olsen is master, now lying at the Port of Hilo, Island of Hawaii, Territory of Hawaii, and within the admiralty jurisdiction of this Honorable Court, her tackle, apparel, machinery, boats, furniture, appurtenances and cargo, now or lately on board said schooner, and including any and all portions of said cargo which are now or may be in course of discharge from and after the time of assistance rendered by libelant to said schooner as hereafter alleged, and also against the freight money of said schooner, and against all persons lawfully intervening for their interest therein, in a [10] cause of salvage, civil and maritime, alleges as follows:

I.

That said libelant, Inter-Island Steam Navigation Company, Limited, now is and at all the times herein-after mentioned was a corporation duly organized

and existing under and by virtue of the laws of the Territory of Hawaii, and the owner of the said steamer "Niihau."

II.

That, during all of the times herein mentioned, said steamer "Niihau" was and now is of the tonnage of 341 tons, and had a crew of 37 men besides her master, and that said steamer then was and now is staunch and strong, well manned, tackled and appointed, well equipped for salvage purposes, and of the value of \$55,000.

III.

That during all of the times mentioned in this libel the said American schooner "Halcyon" was and now is a vessel of the tonnage of 293 tons, having three masts, and of the value of \$3,000, and that said schooner was laden with a valuable cargo of lumber destined for the Port of Hilo aforesaid, the value of which together with her freight money was upwards of the sum of \$7,000.

IV.

That during the night following the 12th day of January, 1914, the said schooner theretofore lying moored to the Hilo side of the railroad wharf (so-called) in said harbor of Hilo, broke loose from her moorings by reason of the violence of the wind and sea then prevailing, and drove toward the rocky shore of said harbor at or near the mouth of the Waiakea (or Waiolama) River, and was in close proximity to the rocks and lava reef. That when a member of the crew of said steamer "Niihau" was on his way, with others, to join said steamer, at the hour of 3:45 on

the morning of January 13th, 1914, he was hailed by someone on board said schooner, who stated that the schooner was ashore and asked that assistance [11] be rendered as soon as possible. That said message was forthwith carried to the master of said steamer "Niuhau," then lying at anchor in Hilo Bay, some distance therefrom, whereupon said steamer proceeded immediately to the assistance of said schooner. That, in attempting to render assistance to said schooner the said steamer was obliged to risk fouling her propeller on intervening buoys in the darkness, and, on account of the close proximity of said schooner to the rocks, to steam as closely as possible and then drop anchor and pay out chain to get into position near said schooner. That said steamer then dispatched a small boat with a hawser to be placed on board said schooner, holding said boat from being carried away by the wind and sea by attaching thereto and paying out a surf-line. That the hawser having been so placed on board said schooner and made fast thereon, said steamer began heaving on her anchor chains and steaming with her engines, and towed said schooner out into Hilo harbor, to the usual anchorage ground for like vessels and thereupon said schooner dropped anchor and cast off or cut off said hawser.

That thereafter, the said steamer having dropped her own anchors, it was noticed by the master of said steamer that said schooner again began to drag anchor, at or near the hour of eight o'clock in the morning, whereupon the master of said steamer placed his vessel in a position to again render aid,

dropping both anchors, paying out about 80 fathoms of chain to each anchor, and the hawser of said steamer was again put in the boat to be sent to said schooner, the said boat being again controlled by a surf-line from the steamer. Said boat had almost reached said schooner when distress signals were set by said schooner for immediate assistance. Said line was again passed on board said schooner and there made fast, whereupon said steamer, by again heaving on her anchor chains and steaming with her engines, towed said schooner to a place of safety in said harbor, and thereafter, by request of the master of said schooner, continued to hold said [12] schooner in a safe position for the remainder of said day and throughout the succeeding night, and did not release her until the morning of the 14th of January, when the wind and sea had abated sufficiently to enable said schooner to hold at her anchor.

That at the time said schooner had for the second time dragged away or broken from her moorings she drifted rapidly toward the shore and was actually ashore and pounding upon the reef and was turning broadside and was almost wholly broadside when by the efforts of said steamer she was towed free from said reef and out into the harbor as aforesaid.

That for some time preceding the night of January 12th, and during all of that night, and all of the 13th of January, 1914, the wind was high, blowing a gale, at times of a velocity of forty miles an hour, directly toward the inner shore of the Hilo harbor, and the sea was heavy, with large swells, and the surf high, and had it not been for the assistance rendered said

schooner by said steamer, as above set forth, the said schooner would, upon either of the occasions above described, have become a total loss together with her cargo on board. That said schooner and cargo were saved from total loss solely by and through the efforts of the said steamer "Niihau," her master and crew.

V.

That the said steamer and boat, and the persons thereon, were exposed to some risk and peril during said salvage operations, and particularly during the second rescue of said schooner, on account of the gale and heavy seas prevailing and the certainty of destruction of said steamer by being driven ashore had her anchor chains broken and said steamer become in any manner disabled. [13]

VI.

That the services performed by the libelant as aforesaid were of a salvage nature and were of great value to said schooner "Halcyon," which without the aid thereof, would have become a total loss together with her cargo. That the libelant, by reason of said services so rendered deserves and is justly entitled to fair and proper salvage as a reward which is usually granted by a court of admiralty in such cases, and that the fair value of said services is the sum of Four Thousand Dollars.

VII.

That all and singular the premises are true and within the admiralty jurisdiction of this court.

WHEREFORE, libelant prays that process in due form of law according to the course and practice of

courts of admiralty and this Honorable Court in cases of admiralty and maritime jurisdiction may issue against the said schooner "Halcyon," her tackle, apparel, machinery, furniture, boats, appurtenances, cargo and freight money aforesaid, and that all persons having or claiming to have any right, title, claim or interest in said American schooner "Halcyon," her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and/or freight money aforesaid, be cited to appear and answer upon oath all and singular the matters aforesaid, and that this Honorable Court may be pleased to decree a reasonable and proper salvage to be due the libelant as compensation for its said services, as shall seem to this Court meet and reasonable, together with its costs in this behalf; and that the said American schooner "Halcyon," her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and freight money aforesaid, may be condemned and sold to pay said salvage with costs; and with all other proper charges and expenses; and that libelant may have such other and further relief in the premises as in law and justice it may be entitled to. [14]

Dated, Honolulu, T. H., January 17th, 1914.

INTER-ISLAND STEAM NAVIGATION
COMPANY, LIMITED.

By (Sgd.) JAMES A. KENNEDY,

Its President.

(Sgd.) SMITH, WARREN, HEMENWAY &
SUTTON,

Proctors for Libelant.

United States of America,
Territory of Hawaii,
City and County of Honolulu,—ss.

Now comes James A. Kennedy, and being first duly sworn, upon oath deposes and says:

That he is the president and manager of the Inter-Island Steam Navigation Company, Limited, a Hawaiian Corporation, libellant in the foregoing libel, and is authorized to make this oath and prosecute this suit on behalf of said libellant. That he has acquired a knowledge of the matters and things set forth in said libel from representations made by the master and some of the members of the crew of the steamer "Niihau" and other witnesses of the matters aforesaid; and that the matters and things so set forth in said libel are true to the best of deponent's knowledge, information and belief.

(Sgd.) JAMES A. KENNEDY.

Subscribed and sworn to before me this 17th day of January, 1914.

(Sgd.) F. L. DAVIS, [Seal]
Deputy Clerk, United States District Court, Territory of Hawaii. [15]

Order for Process of Attachment and Monition.

Upon reading and filing the foregoing libel, it is hereby ordered that process of attachment issue as prayed for in said libel against the said American schooner "Halcyon," her tackle, apparel, machinery, furniture, boats, appurtenances and cargo laden on

board and which may have been or be discharged from said vessel since the 13th day of January, 1914, wherever found, and the freight money; and that all persons claiming any interest in the same or any part thereof be notified according to the rules and practice of this Court to appear before me on Friday, the 23d day of January, 1914, at 10 o'clock A. M. of said day.

Dated Honolulu, T. H., January 17th 1914.

(Sgd.) S. B. DOLE,

Judge of the District Court of the United States in
and for the District and Territory of Hawaii.

UNITED STATES MARSHAL'S OFFICE.

MARSHAL'S RETURN.

The within Libel and Order were received by me on the 17th day of January, A. D. 1914, and is returned as executed on the 19th day of January, A. D. 1914, at Hilo, Hawaii, upon the American schooner "Halcyon" her tackle, apparel, &c., and her cargo now being discharged, by handing to and leaving with J. A. T. Olsen, Captain of the said American schooner "Halcyon," a certified copy of the within Libel and Order, posting public notice of attachment on the mainmast of said American schooner, and leaving W. A. Fetter as custodian in charge of the said American schooner and Alfred Fragas as custodian in charge of the cargo now being discharged from the said American schooner "Halcyon" and now lying on the wharf at Hilo, Hawaii.

Dated Honolulu, T. H., January 20, 1914.

(Sgd.) E. R. HENDRY,

United States Marshal.

[Endorsed]: No. 139. (Title of Court and Cause.)
Libel and Order. Filed Jan. 17, 1914. A. E.
Murphy, Clerk. By (Sgd.) F. L. Davis, Deputy
Clerk. [16]

Monition and Return Thereto.

*In the District Court of the United States, for the
Territory of Hawaii.*

The President of the United States of America, to
the Marshal of the United States of America for
the Territory of Hawaii, Greeting:

WHEREAS, a Libel hath been filed in the District
Court of the United States for the Territory of
Hawaii, on the 17th day of January, A. D. 1914, by
Inter-Island Steam Navigation Company, Limited,
a Hawaiian corporation, owner of the steamer
"Niihau," etc., against the American schooner
"HALCYON," her tackle, etc., cargo and freight
money, for the reasons and causes in the said Libel
mentioned, and praying the usual process and moni-
tion of the said Court in that behalf to be made, and
that all persons interested in the said vessel, her
tackle, etc., cargo and freight money, may be cited
in general and special to answer the premises, and
all proceedings being had that the said vessel, her
tackle, etc., cargo and freight money may for the
causes in the said Libel mentioned, be condemned
and sold to pay the demands of the Libelants.

YOU ARE THEREFORE HEREBY COM-
MANDED to attach the said vessel, her tackle, etc.,
and her cargo on board and also all cargo removed

from said vessel subsequent to the 13th day of January, 1914, wherever found, and her freight money, and to retain the same in your custody until the further order of the Court respecting the same, and to give due notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said Libel, that they be and appear before the said Court, to be held in and for the Territory of Hawaii, on the 23d day of January, A. D. 1914, at ten o'clock in the forenoon of the same day, if that day shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there interpose a claim for the same, and to make their [17] allegations on that behalf.

And what you shall have done in the premises, do you then and there make return thereof, together with this writ.

WITNESS, the Hon. SANFORD B. DOLE, Judge of said court, at the City of Honolulu, in the Territory of Hawaii, this 17th day of January, A. D. 1914, and of our Independence, the one hundred and thirty-eighth.

[Seal]

A. E. MURPHY,
Clerk.

By (Sgd.) F. L. Davis,
Deputy Clerk.

SMITH, WARREN, HEMENWAY & SUTTON,
Proctors for Libelant.

Marshal's Return.

In obedience to the within Monition, I attach the Am. Schr. "Halcyon" therein described, on the 19th

'day of January, 1914, and have given due notice to all persons claiming the same that this Court will, on the 23d day of January, 1914 (if that day be a day of jurisdiction, if not, on the next day of jurisdiction thereafter), proceed to trial and condemnation thereof, should no claim be interposed for the same.

(Sgd.) E. R. HENDRY,
United States Marshal.

Honolulu, January 20th, 1914.

[Endorsed]: No. 139. (Title of Court and Cause.)
Monition Returnable Jan. 23, 1914. Issued Jan. 17,
1914. Filed Jan. 20, 1914. A. E. Murphy, Clerk.
By (Sgd.) F. L. Davis, Deputy Clerk. [18]

[Title of Court and Cause.]

Claim.

To the Honorable SANFORD B. DOLE and the
Honorable CHARLES F. CLEMONS, Judges
United States District Court, Territory of
Hawaii.

Comes now J. A. T. Olsen, Master of the American schooner "Halcyon," and the lawful bailee thereof, and of her tackle, apparel, machinery, boats, furniture, appurtenances and cargo and states that he is the master of said schooner and the lawful bailee thereof as well as of her tackle, apparel, machinery, boats furniture, appurtenances and cargo for the owners of said schooner and the shippers of said cargo and entitled to intervene in the above-entitled cause on behalf of said schooner, her tackle, apparel,

machinery, boats, furniture, appurtenances and cargo and on behalf of said schooner's owners and on behalf of the shippers of said cargo. [19]

And said claimant thereupon prays this Honorable Court to be admitted to defend in said cause and that this Honorable Court will be pleased to decree the restitution of said schooner, her tackle, apparel, machinery, boats, furniture, appurtenances and cargo and otherwise right and justice to administer in the premises.

Dated Honolulu, Hawaii, January 20, 1914.

(Sgd.) J. A. T. OLSEN,

Master of Said American Schooner "Halcyon," and
Bailee Thereof and Her Tackle, Apparel, Ma-
chinery, Boats, Furniture, Appurtenances and
Cargo.

United States of America,
Territory of Hawaii,—ss.

J. A. T. Olsen, being first duly sworn upon oath, deposes and says that he is master of the American schooner "Halcyon" and the lawful bailee thereof, as well as of her tackle, apparel, machinery, boats, furniture, appurtenances and cargo and that as such bailee he is authorized to make and file the foregoing claim on behalf of the owners of said schooner, her tackle, apparel, machinery, boats, furniture and appurtenances, and on behalf of the shippers of her cargo; that he has read the said claim and knows the contents thereof and that the matters therein contained are true; that said schooner is an American schooner and that the nearest residence and

place of business of the owners of said schooner [20] is more than one hundred *and* miles from Honolulu, Territory of Hawaii.

(Sgd.) J. A. T. OLSEN.

Subscribed and sworn to before me this 20th day of January, 1914.

[Seal] (Sgd.) F. L. DAVIS,
Deputy Clerk, United States District Court, Territory of Hawaii.

[Endorsed]: No. 139. (Title of Court and Cause.)
Claim. Filed Jan 20, 1914. A. E. Murphy Clerk.
By (Sgd.) F. L. Davis, Deputy Clerk. [21]

[Title of Court and Cause.]

Notice of Bonding.

To E. R. Hendry, Esq., Marshal of the United States
for the Territory of Hawaii.

Sir: A Bond, duly executed and approved, under Section 941 R. S. U. S., has been filed for the release of the American schooner "Halcyon," her tackle, etc., attached on the libel of the above-named libellant.

Amount of Bond \$8,000.

WITNESS, my hand and the seal of said court,
this 20th day of January, A. D. 1914.

[Seal] A. E. MURPHY,
Clerk.

By (Sgd.) F. L. Davis,
Deputy Clerk.

UNITED STATES MARSHAL'S OFFICE.
MARSHAL'S RETURN.

The within Order of Release was received by me on the 20th day of January, A. D. 1914, and is returned as executed this 20th day of January, A. D. 1914, by handing to and leaving with J. A. T. Olsen, Master of the American schooner "Halcyon" a copy of the within Order of Release in Honolulu, Oahu, and sending a wireless message to custodian Fetter as follows:

"Fetter,
Hilo.

Schooner and cargo released. Turn same over to First Mate taking duplicate receipts for same. Notify Nichols.

HENDRY."

Order of Release returned this 20th day of January, A. D. 1914.

(Sgd.) E. R. HENDRY,
United States Marshal.

Dated, Honolulu, T. H., January 20, 1914.

[Endorsed]: Notice of filing of Bond. [22]

Minutes of Court—July 31, 1914.

(PROCEEDINGS AT THE TAKING OF THE
DEPOSITIONS DE BENE ESSE OF FRED
SACH, J. F. JOSEPH AND NELS PIERSEN
ON BEHALF OF THE LIBELLEE.)

(DOLE, Presiding Judge.)

From the Minutes of the United States District
Court, Saturday, January 31, 1914, Vol. 9,
part 1, Folio 38.

[Title of Court and Cause.]

On this day came Mr. L. J. Warren of the firm of
Smith, Warren, Hemenway & Sutton, proctors for
the above libellant and also came Mr. J. W. Russell,
proctor for the libellee and this cause was called for
the taking of certain depositions *de bene esse* in con-
formance with the stipulation heretofore entered
into by respective proctors. Thereupon the deposi-
tions of Fred Sachs, J. F. Joseph and Nels Piersen
were taken on behalf of the libellee and the time for
adjournment having arrived, it was by the Court
ordered that this cause be continued to February 2,
1914, at 11 o'clock A. M., for the further taking of
said depositions. [23]

Minutes of Court—February 2, 1914.

(PROCEEDINGS AT THE TAKING OF THE DEPOSITIONS OF WILLIAM CLOVER, ON BEHALF OF THE LIBELEEE.)

(DOLE, Presiding Judge.)

From the Minutes of the United States District Court, Monday, February 2, 1914, Vol. 9, part 1, Folio 40.

[Title of Court and Cause.]

On this day came Mr. L. J. Warren of the firm of Smith, Warren, Hemenway & Sutton, proctors for the above libellant and also came Mr. J. W. Russell, proctor for the libellee, whereupon the depositions *de bene esse* of William Clover was taken on behalf of the libellee as per the stipulation of proctors heretofore filed herein. It was then ordered that this cause be continued to February 3, 1914, at 9 o'clock A. M., for the further taking of depositions. [24]

Minutes of Court—February 3, 1914.

(PROCEEDINGS AT THE TAKING OF THE DEPOSITION OF J. A. T. OLSEN, ON BEHALF OF THE LIBELLEEE.)

(DOLE, Presiding Judge.)

From the Minutes of the United States District Court, Tuesday, February 3, 1914, Vol. 9, part 1, Folio 42.

[Title of Court and Cause.]

On this day came Mr. L. J. Warren of the firm of Smith, Warren, Hemenway & Sutton, proctors

for the above libellant and also came Mr. J. W. Russell, proctor for the libellee, whereupon the deposition *de bene esse* of J. A. T. Olson was taken on behalf of the libellee, pursuant to the Stipulation of proctors herein. [25]

[Title of Court and Cause.]

Before the Honorable S. B. DOLE, Judge of Said Court.

Depositions De Bene Esse.

APPEARANCES:

L. J. WARREN, Esq., of the Firm of Smith, Warren & Sutton, for Libellant.

J. W. RUSSELL, Esq., for Libellee.

Deposition of Fred Sach, for Libellee.

Direct Examination of FRED SACH, a witness on behalf of libellee, called and sworn.

Mr. RUSSELL.—Q. Your name is Fred Sach? Mr. Sach, you are a member of the crew of the schooner "Halcyon"? A. Yes, sir.

Q. And you came to Hilo on the schooner on the 13th of January?

A. I don't remember exactly the date.

Q. Well, it was along about the twelfth or thirteenth of January? [26] Somewheres along about the ninth? A. I don't remember the date.

Q. Do you recall the evening of January 12th? That is the night that the "Halcyon" broke from its moorings. A. The most part of it, I think.

Q. You remember that night? A. Yes, sir.

(Deposition of Fred Sach.)

Q. Now, at that time whereabouts in Hilo harbor were you moored?

A. Well, we were between the first and second buoy, I think it was. We had the head-lines fast on the first buoy and the stern-lines on the second buoy, and the schooner had his lines on the first buoy.

Q. Were you moored to the wharf?

A. It was a little off the wharf.

Q. Were there any lines running to the wharf?

A. There was the head-lines and stern-lines.

Q. So that while you were moored there the head-lines were tied to the wharf as were the rear-lines and you also had some lines running to the buoy?

A. We had offshore lines fore and aft.

Q. During that day what was the weather?

A. Oh, it was looking kind of bad. It was getting a breeze up.

Q. The day before she broke?

A. The day before she broke we was lying along-side and loading cargo.

Q. At what time did she break the lines?

A. We got wind about between nine and ten o'clock. We had to clear the starboard anchor. We dropped the anchor and she drifted about half a ship's length on the schooner and we got afoul of the schooner's bowsprit, and we hauled in the off-shore stern-line and kept clear of the schooner and she lie there.

Q. Then what did you do with reference to clearing the schooner back of you?

(Deposition of Fred Sach.)

A. We hove part of the anchor in, if I ain't mistaken and then we pulled on the offshore breast stern-line. [27]

Q. Did you loosen those lines, the rear-lines that tied the schooner to the wharf?

A. I think the head-line carried away.

Q. There was also a rear-line?

A. Yes, there was stern-lines.

Q. What did you do with reference to the stern-lines?

A. I just hauled her off and she laid there for that time being.

Q. And did she drift at that time?

A. No, sir, she laid there and then the wind blow that time.

Q. Then what happened?

A. Nothing happened then. That was the first time, you know, when we went adrift.

Q. Now, which way did you go?

A. We just go right in, a little ways off may be when we hauled the line in.

Q. In what direction did you drift?

A. Astern, towards the beach.

Q. How long a distance did you drift?

A. Must have been about half a ship's length from the first time we drifted.

Q. Then what happened?

A. Nothing happened that time. Then we got sent below again. Then about towards morning between two and three, that's the time she started to go in.

(Deposition of Fred Sach.)

Q. Between two and three in the morning?

A. Yes, sir.

Q. Then what happened?

A. The second mate, me, and another man, we got sent in a boat. I don't know what happened on board.

Q. At that time there was a line running to the buoy?

A. Yes, sir. As soon as we had that fast we came aboard and that line carried away.

Q. Then what was done then?

A. Well, we took the line forward, [28] and I think we started to heave on the offshore anchor again and heaved her in.

Q. And what did the ship do then?

A. I couldn't say exactly what she did. She lie there. She just swung back a little more.

Q. Did she leave the wharf?

A. She was over by the wharf.

Q. How far had she gone from the wharf?

A. About hundred feet, 150 feet.

Q. Then did you board the ship after you tied the line, the stern-line to the buoy? A. Yes, sir.

Q. And what was done there?

A. We went forward and took the line forward and hauled her in, kind of eased it.

Q. What was done, if anything, with reference to the anchors? A. Dropped both anchors out.

Q. So that you were then about a hundred feet out from the wharf with the stern-line tied to the buoy and your two anchors down? A. Yes, sir.

(Deposition of Fred Sach.)

Q. What was the situation or the condition of the vessel then with reference to whether or not it was holding?

A. She was holding then for that time being; may be drifting a little.

Q. You say may be drifting a little?

A. Yes, may be drifting a little.

Q. How long a time did you remain there as you've described after the head-line was tied to the buoy? A. That I couldn't say exactly.

Q. To the best of your recollection?

A. You mean after the boat came? The way we lay there before the boat came? Must have been an hour or so, but I couldn't say exactly.

Q. Did she, during that hour, move any distance?

A. She went back a little more.

Q. About how far back?

A. I should think about hundred or [29] two hundred feet.

Q. Then what occurred?

A. I believe an anchor carried away. The star-board anchor. The port anchor, I mean to say. Offshore anchor. She carried away.

Q. Did you see any boat come up there with any line?

A. No, sir, not that time. That boat came from the beach and went on board the steamer then.

Q. Now, then, with reference to this anchor carrying away; was that before or after you got this line?

A. I'm not quite certain of that.

(Deposition of Fred Sach.)

Q. Well, then, what occurred?

A. That's all we carried away at that time.

Q. You say there was a line brought to the vessel?

A. Yes, the steamer brought the line but I couldn't say whether it was before or after the anchor carried away. I didn't quite take notice. When the anchor carried away I was too busy.

Q. What was done with this line?

A. We made it fast around a bit.

Q. Then tell what happened?

A. We hove up our anchors and then he seemed to heave on his line.

Q. Who do you mean, "he"?

A. That steamer. I don't know her name. And he started and hove on his line and it carried away about thirty fathoms from our vessel. We had about thirty fathoms on board when the line carried away.

Q. Did you notice whether or not this line, that is the tow-line from the steamboat had become taut or not?

A. Yes, I noticed that several times.

Q. Were the anchors hove up before or after the line was attached to the schooner?

A. Well, he hove on the anchor after the line was fast. When we start heaving on the vessel on his line, we hove up our anchors. [30]

Q. Do you remember whether or not it was at that time that one of the anchors broke?

A. That I couldn't say if it was before or after that.

(Deposition of Fred Sach.)

Q. What was done with reference to the line that ran to the buoy?

A. When he start heaving we kept on slack it as quick as we could, then we had to let go them.

Q. That is after the steam vessel started towing you?

A. After the steam vessel got ahold of us and towing us.

Q. You loosened the line to the buoy? A. Yes.

Q. Had she had the full length of the line?

A. The full length. I believe she's lying out there yet.

Q. Did you see the line afterwards? A. Yes.

Q. And was she still tied to the buoy?

A. We let go from it and we took about five fathoms aboard the ship and the rest we couldn't get.

Q. How far had you been towed before this tow-line broke?

A. About a ship's length; very likely may be a little more.

Q. Then what occurred?

A. This tow-line carried and we dropped our star-board anchor.

Q. Then what was done? What did she do?

A. We lay there then and we start to drift.

Q. And in which direction did you start to drift?

A. We went kind of maybe off the wharf line, so we drifted then.

Q. Do you know where the postoffice is situated there in Hilo?

(Deposition of Fred Sach.)

A. No, sir. It was somewheres around where the boiler is. Some steamer went ashore they claim, and it was drifting that direction.

Mr. WARREN.—That big, black boiler?

A. The pilot say it was that direction.

Mr. WARREN.—Where a ship had gone ashore before? [31] A. A steamer.

Q. Now, just before the tow-line from the steam vessel was brought to the schooner were there any lights, or signals displayed on the “Halcyon”?

A. Yes, I think the bluish light; kind of bluish light.

Q. An this tow-line was brought how soon after the bluish lights were displayed?

A. I couldn’t say.

Q. What is your best judgment?

A. I couldn’t say I have any judgment about it all. I didn’t take notice of it.

Q. When you started drifting, will you give us some idea as to how rapidly she was drifting, she was proceeding?

A. We she drifted very slowly but she was sure going ashore if we didn’t get any help and the anchor had no hold.

Q. Do you recall when the flags were put up on the “Halcyon”?

A. Yes, I cleared those halyards myself for the flags.

Q. How near to the shore were you at that time?

A. Well, I couldn’t say, but I know the pilot came out there and he was way inside of us. He broke

(Deposition of Fred Sach.)

down in his gasoline boat. It was between the beach and us.

Q. That is, the pilot-boat was between you and the beach. Well, in point of distance, give us your best judgment as to how far you were from the beach?

A. About two hundred feet very likely.

The COURT.—I should like the question asked how far they were from the breakers.

Mr. RUSSELL.—Q. How far were you from the breakers?

A. There was kind of ground swell, and I believe the second mate went over and heaved the lead. I was alongside the second mate and he said between seventeen and eighteen feet of water.

Q. Now, when you were drifting as you stated, did you see this [32] steam vessel?

A. I seen him, yes, sir, but I didn't take no notice of her.

Q. Whereabouts was she, was the steam vessel, with reference to the place where she was when the tow-line broke?

Mr. WARREN.—The first time, you mean?

Q. Yes, the first time. Had the steam vessel moved about any?

A. I fancy she laid in the same place.

Q. You think she laid in the same place?

A. Yes.

Q. How long a time elapsed between the time that the tow-line broke and the time that you hoisted up the flags?

(Deposition of Fred Sach.)

A. Must have been quite a while. About a couple of hours, very likely.

Q. And when you hoisted your flags what occurred? Did anybody come to you?

A. A boat came from that steamer and brought us another line, one similar to the line we had there before.

Q. This wire line? A. Wire line.

Q. And what was done with that line?

A. We made that fast and we started to heave again and when we got it taut she brought us a big line.

Q. What did you do with that line?

A. Made that fast too and we hove on both lines.

Q. Were you towed afterwards?

A. He started towing us when we got the two lines fast.

Q. Towed with both of those lines?

A. Towed with both of those lines, yes.

Q. Where were you towed to? In what direction?

A. To where them Hawaiian boats lie; them Matson boats lie.

Mr. WARREN.—The “Enterprise”?

A. Yes, the “Enterprise.” The “Enterprise” was lying there that time being and we towed kind of to her. [33]

Q. That was in a direction toward the whistling-buoy? A. Towards the whistling-buoy.

Q. Then what did you do when you got toward the “Enterprise”?

A. We dropped our anchor, the one we got left.

(Deposition of Fred Sach.)

Q. Did she hold?

A. She held then, yes; she held then.

Q. And was there a line running from you to the steam vessel?

A. Well, we had a line fast to that tow and during the night.

Q. Now, when the boat came there with those two lines, what was the condition of the sea?

A. Kind of rough.

Q. Was there any wind?

A. Well, the same as there had been all night.

Q. And before the boat came to you—that is, it was a life-boat was it not? A. Yes.

Q. How close to you did the life-boat come?

A. It came right close and heaved a heaving line on board and we pulled on that other line what we had and brought that hawser.

Q. Was the sea such as to render it difficult for the life-boat to approach?

A. No, sir; there was two or three gasoline boats went all around the vessel at the time the boat brought us the line.

Q. Did the schooner strike shore?

A. I don't think so. I didn't hear nothing.

Q. Did you feel any shock?

A. Not the time being; not the time when we was in there.

Q. Before the life-boat came out to you with the lines, had you seen it? Had you observed it until it was near the vessel?

A. You mean the first time?

(Deposition of Fred Sach.)

Q. No, the second time, the last time?

A. I don't quite understand you.

Q. Before the boat came to you to give you the line, the lines, did you see it at any time before?

A. You mean the second time? The steamer was lying there right along. [34]

Q. And did you see this boat anywheres about the steamer?

A. She was lying astern, alongside, on her quarter.

Q. And was the boat in the water?

A. Yes, the boat was in the water.

Q. And you saw her there for how long a time.

A. I ain't quite sure. I seen the boat but never took notice; a fellow generally don't take notice of a thing like that. I know the first time when we came there it was lying there quite a while too before we ever begun to move.

Q. What boat was it that was there quite a while?

A. The steamer that towed us. She was lying outside then she came in and I was around the deck and the mate was there too, I think, one or two men was there, and I said—

Q. Never mind what you said. When the bluish lights were displayed, did you notice where this steam vessel was?

A. About half ways on the deck there.

Q. Did you notice the vessel?

A. Yes. You mean the steamer?

Q. Yes. A. Yes.

Q. Did you notice how soon after the bluish lights were displayed that this vessel came towards you?

(Deposition of Fred Sach.)

A. I didn't take any notice of that.

Q. Do you remember how soon afterwards it was that you first observed this vessel coming in your direction? A. You mean the steamer itself?

Q. Yes?

A. No, I don't know for sure. I think it was lying there before the bluish light was.

Q. Did you at any time see this vessel, the steam vessel approaching in your direction?

A. Yes, sir. Yes, I did.

Q. And the first time that you noticed her was how long after the lights were displayed, kind of bluish?

A. That I couldn't tell you.

Q. Have you any recollection or any judgment at all as to that? [35]

A. Well, she was lying there about twenty minutes or half an hour before the boat came over to us. I didn't notice how long between the lights before the boat came. I got no recollection.

Mr. RUSSELL.—You may cross-examine. Just a moment.

Q. What is your position on the vessel?

A. Seaman.

Cross-examination of FRED SACH.

Mr. WARREN.—Q. I understand that the day before that night when she broke away you had been alongside the wharf?

A. Yes, sir, we came alongside.

Q. And had been discharging? A. Yes.

Q. And had let out your bow and stern-lines in order to stand off from the wharf a little ways during

(Deposition of Fred Sach.)

the night, is that right? A. Yes, sir.

Q. And you let those out a little bit so as to lay off from the wharf?

A. Not the stern and bow, the breast-line. We slacked a little on the offshore lines, on the bow-lines.

Q. How much line did you have out on the buoy, to the buoy that night? A. You mean off shore?

Q. Yes. A. I couldn't tell you the length of it.

Q. What is that, about?

A. I got no idea how far it is; just keeping the ship from going into the wharf; must be about hundred feet; very likely; may be a little more.

Q. Then you had a bow-line to a buoy?

A. Bow-line to a buoy.

Q. How long is that line?

A. That's the one I'm alluding to, the one to the wharf; that's the one, the shore-line.

Q. And what size line did you have between the schooner and [36] the wharf?

A. We had the end of a hawser; that's an eight-inch line; may be nine, may be ten-inch line.

Q. What size of line running to the buoy?

A. Five or six-inch, I think.

Q. And to the buoy at the stern?

A. The same kind of line.

Q. And at that time about how far was the stern of the schooner from the—

A. The stern of the schooner?

Q. Yes. A. Before anything carried away?

Q. Yes.

A. Well, must have been about twenty feet; very

(Deposition of Fred Sach.)

likely fifteen or twenty feet off the wharf. We have to haul in a little.

Q. As you were lying there you were toward the wharf, toward the land? A. Yes, sir.

Q. How far from the Ka Moi was that schooner?

A. Must have been about fifty feet.

The COURT.—Which way was the schooner from you?

A. The schooner's bow was forty or fifty feet away from us, lying astern.

Mr. WARREN.—Q. Her bow was pointing toward your stern?

A. Yes, sir.

Q. You spoke of buoys by numbers, do you put number one nearest the stern?

A. There is three buoys; there is one, two, three. There is no numbers on them.

Q. Which two of those three were used for your mooring? A. The furthest out.

Q. So there was one buoy closer in shore that you had no line to?

A. They were lying in the same direction with the wharf.

Q. And were there any anchors out from the schooner lying there that night before she broke away? A. Our anchors? [37]

Q. Yes.

A. There was an offshore anchor out there, must have been thirty fathoms.

Q. Your starboard anchor was not down then?

A. Starboard anchor was not down.

(Deposition of Fred Sach.)

Q. And what's the size of your anchors?

A. Well, the one we had out wasn't a very big anchor. I couldn't say the size of it.

Q. What is your best judgment of what it weighed?

A. I hardly could tell, sir.

Q. And about what time of the morning was it that you first began to get into trouble?

A. That was during the night.

Q. During the early hours of the morning, two or three o'clock?

A. Not when we first start. Between nine and ten o'clock that's the time we got called out. We was sleeping; that's the time she start to go adrift.

Q. Was it then that you collided with the schooner?

A. Yes, sir, that's the time we collided with the schooner.

Q. After you got her from the schooner you lay there a while before you started drifting again?

A. Yes.

Q. What time was it?

A. About three o'clock we started, and we kept working.

Q. And you still had the bow and stern-lines to the buoys? A. Yes, the lines was to the buoys.

Q. And the one anchor down?

A. That's the time we got called out to clear the second anchor and we dropped that anchor, the star-board anchor.

Q. Do you feel sure which anchor you had down first?

A. That's the port anchor; the offshore anchor.

(Deposition of Fred Sach.)

Q. Wasn't it the port anchor that you lost?

A. Yes, that's the port anchor we lost, but we had the starboard anchor down before we lost the port one.

Q. When was it that you lost the port anchor? How long after [38] you began to drift?

A. That I ain't positive sure. I was in the boat, me and the mate and another man.

Q. Who ran the line from the stern to the buoy?

A. I didn't notice.

Q. About what time in the morning was it that you saw these bluish lights you speak of?

A. Around three o'clock. Between three and four very likely.

Q. Now, have you any knowledge of how it came that a boat came from the steamer to help you?

A. No, sir, I don't know.

Q. You don't know what brought that boat?

A. No, sir, I don't know what brought that boat.

Q. Where were you when the boat came?

A. You mean the steamer itself?

Q. The steamer's small boat?

A. I was on the deck, then I went to the fo'c'sle-head and somebody sung out, and we got his line fast. I couldn't say what time she left the boat, the steamer itself, what time it was.

Q. Did you see anything of a boat in the harbor when the schooner, before the steamer's boat came with the line? A. No, sir, I did not.

Q. How long were you away from the schooner attempting to run the other stern-line?

(Deposition of Fred Sach.)

A. Must have been between twenty minutes and half an hour before we got back again. It was kind of rough getting alongside the buoy.

Q. Did you have any difficulty getting the line on the buoy?

A. No difficulty, but kind of undertow; heavy line to get on.

Q. How long had you been back to the schooner before the steamer's boat come?

A. That I couldn't tell you. I don't know the time.

Q. As near as you can tell us?

A. We got up and we give them a hand to haul that line on the fo'c's'le-head. We were standing there when the steamer's boat came. I don't know how long it took, may be half an hour; [39]

Q. Might have been more and might have been less?

A. Might have been more and might have been less, I couldn't say.

Q. When was the second anchor dropped? How long after she began to drift?

A. Right as soon as we got called out. It was the first thing we done when we got called out the second time.

Q. How much chain did you let out on the second anchor?

A. We didn't have much out; she wouldn't take no chain.

Q. About how much?

A. Six or seven fathom, but she got ahold; she wouldn't take no more.

(Deposition of Fred Sach.)

Q. She wouldn't take more?

A. She wouldn't take more. She was up and down; she wouldn't take no weight. We tried to give her more chain but she wouldn't hold taut.

Q. Did you at any time let out more chain on that anchor, that second anchor?

A. I think the boat had ahold of us then and we started in heaving them up.

Q. Heaving up both of your anchors?

A. Yes.

Q. You're not sure of that?

A. I ain't sure if the other was gone or not.

Q. What kind of windlass was it?

A. The old-fashioned windlass, up and down. I don't know how to describe it.

Q. Were any soundings taken around the schooner at the time you dropped the second anchor?

A. I don't know.

Q. Any soundings taken at all that night before daylight?

A. I was around all over. Maybe some time afterwards I heard the second mate taking the soundings, but that was the other time.

Q. How far were you. You say you were perhaps a hundred feet from the wharf before you began to drift early that morning, two or three o'clock, three or four o'clock? About a hundred feet from the wharf?

A. Must have been more or less; not that much but around a hundred feet somewheres.

(Deposition of Fred Sach.)

Q. And you think you drifted about a ship's length more? [40]

A. Yes, about a ship's length more.

Q. Is that all that you drifted before the steamer got a line on or did she drift still more than that before the line was made fast?

A. I don't think she was really holding and didn't drift.

Q. Do you know where the Wainaku River is?

A. You mean—

Q. That stream that comes out, that fresh water stream? A. Yes.

Q. And that row of bolders just on the land side, the Hilo side? A. Yes.

Q. About how far was your schooner from those bolders when the steamer's line was put on?

A. I don't believe it was very far off; a ship's length, about two hundred feet.

Q. How long is your schooner?

A. One hundred and twenty to one hundred and fifty feet; I don't know how long it is.

Q. How far from the land or shore were you at the time that line came on?

A. Well, we was closer to the wharf. You mean where them bolders is? She was closer to the wharf, the land, but I don't know exactly what you mean. You see, there's the wharf there. We was closer to the wharf than to the land on the other side.

Q. I'll just indicate to you what I mean. Suppose this little sketch shows you the wharf and the shore-line coming down toward the river, and the bolders

(Deposition of Fred Sach.)

coming out from the river below there, where was the schooner? That is, how far from the shore-line?

A. This is supposed to be the river?

Q. This is supposed to be the river. These are the bolders.

A. This comes out a little more this way. We were about around here somewheres, I think; out here somewheres (indicating). [41] This is the bolders, where the river comes out.

Q. I'll show you a map of Hilo Bay, this being the Coast & Geodetic Survey Map No. 4103, and ask you to look at this, please. If this is the Hilo railroad wharf and down here is Wailuku or Wainaku River; here are the row of bolders to the shoreward of the wharf. Now, about where in here?

A. We was tied up about around here first; from here to there, I guess.

Q. That is, you drifted from the wharf towards, or in to that row of bolders?

A. Yes. Then I think they got ahold of us and we couldn't drift no more, and we swung clear of that.

Q. And you drifted which way? A. This way.

Q. Away from the land?

A. Yes, away from this wharf.

Q. I'm speaking now of the time that the steamer's boat came to put the line on that night, early that morning, how far were you then from those bolders?

A. Just about here.

Q. How much did your ship draw?

A. She didn't draw, couldn't be more than fourteen feet of water.

(Deposition of Fred Sach.)

Q. Will you please make a cross on this map to indicate the place where the schooner was at the time the steamer's boat first came with the line early that morning?

The COURT.—I suggest instead of making a cross he make a straight line giving the direction of the vessel.

A. We were laying right here.

Q. Mark on the map a little line indicating first where the schooner lay that night before she broke away.

A. She lay here. (Drawing.) That's the schooner. Now, here was the little vessel. What you call it?

Q. "Ka Moi"?

A. "Ka Moi." We started to drift. This is the bow. We drifted right underneath his bow.

Q. You drifted stern towards the bow of the "Ka Moi"?

A. Yes. We got ahold of the line here, away stern [42] there. We hauled in on that stern-line and got clear of that schooner. And she drifted like this.

Q. Draw a dotted line indicating the direction that you drifted and where you were when the steamer's line came to you that night. A. (Witness draws.)

Q. You were then lying bow toward the end of the wharf? A. Bow up, yes.

Mr. WARREN.—The names "Ka Moi" and "Halcyon" are marked on the map to indicate their first positions that night; also, the second position of the

(Deposition of Fred Sach.)

"Halcyon" called "Halcyon-2"; the other one, "Halcyon-1."

Q. Now, you say it was just a short time, the steamer had only towed you a little while before the line parted? A. Yes.

Q. Do you remember at all about what hour of the night it was or early morning that the steamer's line was made fast to the tow?

A. No, I don't remember that.

Q. What is your best judgment of the length of time that that line was made fast before it parted? How long had the steamer been pulling?

A. I got no idea.

Q. Would you say it was five minutes or an hour or two hours?

A. Bit longer than five minutes. I have no idea. I didn't take no notice of that, how long it towed before the line parted.

Q. Would it be nearer to an hour than five minutes?

A. Yes, it would be nearer to an hour than five minutes, I should think.

Q. Have you any idea what time it was in the morning that the line broke?

A. No, sir. It was daylight.

Q. Have you any idea how the line broke?

A. The line was taut and all at once it snapped; strength of the vessel must have broken the line.

Q. Did you see the line break?

A. No, sir, I didn't see it break. [43]

Q. Where were you on the schooner when it broke?

(Deposition of Fred Sach.)

A. Forward somewhere.

Q. How near the bow? A. Few feet.

Q. How far from the schooner when the line broke?

A. I don't know, I didn't take no notice.

Q. Did you take any notice of any of the buoys at that time? A. No, sir.

Q. About how far was the schooner from the wharf at that time?

A. When it carried away, must have been somewhere around the buoys when the line carried away. I didn't take no notice neither. I couldn't say exactly how she was.

Q. Did you see the end of the line when it parted?

A. Yes, we hauled it in.

Q. What was the appearance of the broken part?

A. Little frazzled out.

Q. Did you finally examine that personally?

A. We hauled it in and left it there. I never thought anything about it.

Q. You really didn't have any occasion to—

A. No, sir.

Q. To try and find out how it parted?

A. No, sir.

Q. It's just a supposition on your part that it wasn't strong enough, that's why it broke? What was the size of the line? A. Six-inch line.

Q. How much rope was there on that hawser that you pulled in on the schooner after it parted?

A. About thirty fathoms.

(Deposition of Fred Sach.)

Q. Are you speaking now of the entire length of the line?

A. What we had on board the schooner; the part that parted; what we pulled in on the schooner.

Q. How much line altogether, how much of that line altogether [44] on the schooner, 30 fathoms?

A. About thirty fathoms. That's the line what we pulled in from the end that parted and the end we had on board.

Q. Did you see the broken piece pulled on board?

A. Yes, sir, that broken piece we hauled on board.

Q. Did you see it come on board? A. Yes.

Q. How long did it take?

A. Didn't take long; couple of minutes maybe. It don't take long to haul a line like that, five or six men.

Q. What was the distance between the schooner and the steamer while the steamer was pulling?

A. It must have been about sixty fathom off from us; about sixty or seventy. Very likely at the time she was pulling, my estimation was that the line parted about half ways between us and the schooner.

Q. You didn't see it part?

A. No, I didn't see it part.

Q. Where was the steamer with respect to the end of the wharf at that time?

A. It wasn't clear of the wharf.

Q. She wasn't near the wharf?

A. It wasn't clear of the wharf.

Q. Just indicate on this map the place where the schooner "Halcyon" was when the line parted?

(Deposition of Fred Sach.)

A. We was inside of the wharf; we wasn't outside the wharf, but I couldn't say exactly where it was. We wasn't clear of this point here. This is the point of the end of the wharf. We wasn't clear of that.

Q. How much of the distance between where the line had been put on and the end of the wharf had you covered before the line broke? How far had you gone?

A. Couldn't tell you. It wasn't much.

The COURT.—Q. Was the steamer inside the end of the wharf?

A. Yes, sir, the steamer was in, he was anchored inside here when he had ahold of us.

Mr. WARREN.—Q. Will you mark the steamer?
[45]

A. If this is us, she must have been lying about here.

Q. The steamer? A. Yes.

Q. Will you mark that? When they first sent a line to you?

A. When they first sent a line to us, I don't know how much distance it is. That's where he dropped his anchor the first place.

Q. We'll call that steamer-1 where it dropped the anchor. After the lines were put on did the steamer go ahead?

A. He dropped his anchor and slacked his anchor chain and lowered his boat. I wasn't on board the steamer, he must have slacked his anchors until he come toward us and the boat came to us and gave us the line.

(Deposition of Fred Sach.)

Q. That having been done, did the steamer take up her anchors at all? A. No, he did not.

Q. How do you know?

A. My estimation was that he was just heaving up his anchor chains.

Q. You don't think the steamer moved at all?

A. I looked a couple of times and the propeller wasn't moving. He must have just heaved on his anchor.

Q. Did you watch all the time to see if the propeller moved? A. Not all the time.

Q. It may have moved for all you know?

A. It may have moved for all I know. She would keep her propeller all the time.

Q. Would you say that you're sure the steamer didn't move at all from that position before the line broke? A. I couldn't say that.

Q. She may have steamed ahead?

A: She may have steamed ahead. I wouldn't say for sure.

Q. At the time the line broke where was the steamer?

A. My estimation, at the time the line broke, must have been in the same place.

Q. Same place, marked No. 1? [46]

A. I don't know if he got his anchors up.

The COURT.—Q. When the cable broke, was she still lying at anchor, the steamer?

A. I think he was. I think he had his anchors out and I never seen him heave his anchors up and I never seen his propeller move.

(Deposition of Fred Sach.)

Q. Can you say they were not taken up?

A. I didn't see it; maybe they did.

Q. Then, as far as you know, the steamer didn't take her anchors and didn't move forward to any appreciable extent?

A. That's my estimation. I don't know. I couldn't swear to that.

Mr. WARREN.—Q. When that line parted, were there any lines from the schooner to any buoy?

A. When the line parted?

Q. Yes. A. No, sir.

Q. Were there any anchors of the schooner down?

A. We dropped the anchor as soon as the line parted. I'm positive sure of that.

Q. You dropped—

A. The anchor we had left. We dropped that as soon as the line parted we dropped that anchor.

Q. And how much chain did you get out?

A. I couldn't tell you that; kept on slacking it all the time.

Q. How much chain have you on board there?

A. There's about forty-five fathom. It must have been close to sixty fathom of chain.

Q. You don't know how much of that was let out?

A. No. She drifted all the time. I guess we give her all we had.

Q. Now, what do you think was the total distance that the steamer moved the schooner forward?

A. You mean before the line parted?

A. Yes. How great a distance did the steamer

(Deposition of Fred Sach.)

pull the schooner before the line broke?

A. I don't know; I couldn't tell you. [47]

Q. Your best judgment.

A. It couldn't be much, I don't think. Maybe a ship's length. I'm not quite positive of that.

Q. Can you say it would be not more than a ship's length? A. I don't think no more than two.

Q. You don't think it would be that much?

A. No. I think he towed us off the wharf, kind of slant like; more off the wharf and we was farther off the wharf than we was when he took us first.

Q. Then you say when you dropped that anchor you lay there for some time before you began to drift again?

A. Yes. Then we went back. That was after the first time, when we dropped the anchor. Let me see now, I'm getting mixed up myself. Well, we laid there a little while and then he came out that other line.

Q. Who came out with the other line?

A. The steamer, after we dropped the anchor. We had that fast and then after a little while he came out with a bigger line. That line he brought us was pretty near the same size as the line that carried away.

Q. What I want to get at is, after the line had broken and the schooner had dropped her anchor, how long did she lie there before she began to drift again? A. We drifted gradually right along.

Q. Began to drift right away?

(Deposition of Fred Sach.)

A. Yes, gradually.

Q. Toward where the other vessel had gone ashore?

A. Yes, towards that boiler.

Q. And how long did she drift before the steamer moved out, or did the steamer move?

A. I couldn't tell you. I didn't take no notice. It came after us. He had his anchors up then, the second time, if I aint mistaken, and he [48] came after us. That's when the signals went up, the distress signal.

Q. Do you know whether the steamer moved before or after your signals went up?

Recess.

Q. When you stated that the "Halcyon" was perhaps two hundred feet from the beach, do you mean the line between land and water? A. Yes.

Q. How far from the "Halcyon" did you notice that black object on the beach in that neighborhood looking like it might be an old boiler just at the edge of the water? A. I noticed that.

Q. About how far from that was the schooner?

A. About two or three hundred feet.

Q. And which side of the schooner was that boiler on; on the starboard or port?

A. I think it was right astern.

Q. Right astern. And when Captain Mosher, you know the pilot? A. The pilot? Yes, sir.

Q. Came out to you when you were in that neighborhood, you say his launch was some distance in toward the shore from you?

(Deposition of Fred Sach.)

A. Between the shore and the ship.

Q. Did he anchor there? A. I think he did.

Q. Do you know what the trouble was that he didn't go aboard right away?

A. I don't know why he didn't want to come on aboard right away.

Q. Did you see his launch come out? A. Yes.

Q. And when did she come?

A. Come around us and went around the stern of us and then he stopped there, and then he had to drop his anchor. I think he dropped.

Q. He went around the stern of you to get to the port side? A. I don't know. He broke there.

Q. You say he came around the stern?

A. He came and went around the stern and he must have broke down about half ways between us and the beach. [49]

Q. About how long was it before he got on board?

A. I couldn't tell you the time. It wasn't long.

Q. Ten or fifteen minutes or less?

A. About fifteen minutes, very likely.

Q. Do you remember how he got on?

A. He got on board on the wharf.

Q. Which side? A. I'm not sure which side.

Q. And when did your flags go up, before or after Captain Mosher came out?

A. Well, just a little before Captain Mosher came aboard.

Q. Before he came out?

A. Before he come on board. I don't think he was out neither. I aint positive sure. I don't think he

(Deposition of Fred Sach.)

was out. I aint positive sure. There was another boat around there and I didn't take notice.

Q. What flags were put up?

A. I don't know the flags, the signals, what they meant. I don't know what they meant.

Q. Do you know what the letters were?

A. No, sir. I don't know nothing about the letters of the flags.

Q. Do you know why they were put up?

A. For help, to my estimation.

Q. And you were dragging anchor then?

A. Yes, we was dragging anchor then.

Q. And how much chain had you then, the full length of your chain or less?

A. Must have been the whole length; the way we drifted it must have been the whole length out or we would have given her more chain. That's my idea.

Q. That's the port, you had left?

A. That's the starboard anchor we had left. The port anchor went.

Q. Do you know the weight of that?

A. It's bigger than the other that we lost. I don't know the [50] weight, but it's bigger.

Q. Could you approximate the weight of it?

A. I got no idea of the weight of an anchor.

Q. Do you know whether it would be one thousand or two thousand?

A. It's bigger than that. It's more than two thousand.

(Deposition of Fred Sach.)

Q. Were there any soundings around the schooner?

A. I heard the second mate sing out there was seventeen feet of water.

Q. Where was that? A. On the stern.

Q. And the bow?

A. I don't know if anybody took soundings on the bow.

Q. The bow pointing in what direction?

A. The "Enterprise" was lying there and the bow pointed right up to the "Enterprise" and the stern was right up to the land, to the beach.

Q. Did you see the soundings taken yourself?

A. Yes, I seen that myself.

Q. How near were you to the mate?

A. About from me to you.

Q. And you heard him say there were seventeen feet? Did he give it in feet or fathoms?

A. Feet.

Q. How soon after the flags went up did the line come on board in the steamer's boat?

A. I aint sure what time. It didn't take long; I don't think it took longer than half an hour. I couldn't say how long, but not longer than half an hour.

Q. You think it was as much as half an hour?

A. Not as much; not more; maybe less; not more than half an hour.

Q. How much less?

A. I couldn't tell you. I didn't take notice of it.

Q. And before the boat started toward the schooner

(Deposition of Fred Sach.)

with the line, at that time you saw the boat at the stern of the steamer?

A. On the side of the steamer, on the quarter like.

[51]

Q. Did you see what they were doing?

A. No, I couldn't tell; I guess they was getting ready to go on board.

Q. Did you pay any particular attention to what that boat was doing?

A. No, sir. I know they was going to come away that's why I didn't pay no attention.

Q. Did you see others than the steamer boat?

A. There was two more.

Q. What were they? A. Gasolene launches.

Q. How long had they been out?

A. They was around there all the time.

Q. Were there any out as early as when the line parted?

A. No, I don't think so. I believe they came out the time the signals went up.

Q. Going back to the time the line parted, did you lend any more lines? Your line parted and you dropped your anchor. Did you lend any more lines?

A. We had no chains, we had no lines.

Q. Was any effort made to get a line?

A. Couldn't get a line nowheres. I don't think we had a line on board.

Q. The stern-line that had been to the bow had been parted where?

A. You mean the one we brought out with the boat?

(Deposition of Fred Sach.)

Q. Afterwards you tried to get the stern-line on the bow?

A. I took that stern-line forward and we used her for head-line.

Q. Now, after the line parted you dropped your anchor? A. Yes, sir.

Q. Then Captain Olson tried to get off lines to the buoy? A. We had no lines.

Q. Did he get part of your old line that was on the buoy? A. No.

Q. Where were you at that time?

A. I was around the deck. [52]

Q. You said that after that anchor was dropped you went below? A. That was daytime.

Q. I misunderstood you, I thought it was during the night. I'm speaking now of the time that line parted. That was in the morning, daylight?

A. Yes.

Q. Where did you go?

A. I was around all the time, around the deck.

Q. All the time? A. Yes.

Q. What direction was the wind blowing that morning?

A. Set right in to the, I don't know what direction it is.

Q. About in the direction that you had drifted? The sea was running that way? A. Yes.

Q. How long did the steamer keep hold of the schooner after she took her off the second time; took her out?

(Deposition of Fred Sach.) ,

A. You mean the time we had the two lines?

Q. You had the two lines. How long did she hold on that time?

A. I heard the pilot say, take us to safe anchor; and I guess they didn't understand him. And his launch went out and took us ahead to the "Enterprise."

Q. How do you know that?

A. I was standing alongside the pilot at the time he spoke to the men on his gasoline boat. He sung out from the fo'e's'le-head to heave away, to get us out to safe anchorage, and some way or other he didn't do it. I don't know if he understood the pilot. And he went up to the gasoline boat and he told him to get away and told him to pull us to safe anchorage. We was lying there about five minutes and then he started to pull us right to the "Enterprise," and we dropped the anchor there.

Q. Who took part in this conversation that you heard at that time?

A. Just the pilot; he was talking to his men there.

Q. Was Captain Olson anywhere around?

A. I don't know; I didn't see him. I guess he was around. [53]

Q. How was any message sent to the steamer from the schooner?

A. He just hollered, shouted, sung out to them. That's the time he told them to take us and give us a safe anchorage. If I aint mistaken, the boat came back and said they was going to take us out maybe a hundred feet from where we was lying, and he was

(Deposition of Fred Sach.)

going to hold us. I don't know if he was afraid to hold us.

Q. You mean to say after the steamer had put the line on you the second time, then you didn't go forward?

A. Kind of held us in the same position.

Q. Then this conversation took place?

A. Yes, that's the time the pilot sung out to the steamer to go ahead and take us to safe anchorage. I don't know if they didn't hear him or what was the matter. The pilot called his boat alongside, and one fellow went aboard and told them to take us right to the "Enterprise."

Q. Wait a minute. Did you hear the pilot call over to the steamer?

A. The pilot's man, the man that runs his launch.

Q. And tell the captain of the steamer?

A. I don't know if he told the captain of the steamer.

Q. How do you know that? A. I guess it.

Q. You saw him? A. Seen him going by there.

Q. How do you know what he said?

A. I'm not sure.

Q. You're just guessing? A. Just guessing.

Q. Where was the pilot? A. On board.

Q. Where was Captain Olson?

A. Around the deck somewheres. Maybe on the fo'c's'le-head, too.

Q. Did Captain Olson go over to the steamer?

A. No, sir.

(Deposition of Fred Sach.)

Q. Did the pilot? A. No, sir. [54]

Q. Are you sure? A. I'm sure of that.

Q. Did the pilot and the captain come over later?

A. Yes, later.

Q. How long after?

A. I couldn't tell the time. I never took notice of the time.

Q. Can't you do a little guessing?

A. No, sir, not in that way. I know exactly they went over. That's right. I can't guess about the time. I can't tell about the time. A fellow don't know the time. The fellows around the ship they hardly look at the time.

Q. Were any soundings taken after you had been drawn a hundred feet forward; any more soundings?

A. You say after we drew a hundred feet forward? I never said we drew about a hundred feet.

Q. You said the steamer pulled you away.

A. It pulled us away, but you said drew.

Q. After she had done that did you take any more soundings? A. I don't know.

Q. How far was the schooner from the "Enterprise" at the time the steamer stopped pulling that time? A. When we dropped our anchor?

Q. When you had been pulled a hundred feet from the beach, away from the beach, when the steamer stopped, how far was the schooner from the "Enterprise"? A. Quite a ways.

Q. How long? How far?

A. It was quite a ways off.

(Deposition of Fred Sach.)

Q. Well, approximately?

A. Four or five hundred feet, very likely. I don't know the distance of it.

Q. Where was the "Enterprise" lying with reference to the wharf?

A. We got moorings there. I don't know exactly to describe it; them moorings where them boats' lines make fast.

Q. You look at this map and try to mark the position where the "Enterprise" was lying?

A. If this is the wharf, the "Enterprise" must be lying somewheres around here. I aint sure, [55] but out here somewheres.

Q. You mark the best judgment you can give of the position of the "Enterprise." Will you please mark that on the map here?

A. Somewheres around here. (Marks.)

Mr. WARREN.—Witness marks a cross,—I put a circle around it,—marking it "Enterprise."

Q. Then I would like to have you indicate on this map about where it was that your schooner was when you say she was two hundred feet from the beach, when the line was put on the second time?

A. The second time?

Q. Yes.

A. (Witness marks.) The second time we had these boilers on the starboard quarter.

Mr. WARREN.—Witness marks cross which will be indicated as "Halcyon-3," as the position where she was when the line was put on the second time.

(Deposition of Fred Sach.)

A. Yes, when he had ahold of us.

Q. Now, from there how far did you say she proceeded; about two hundred feet? Oh, this "Halcyon-3" was after the steamer stopped pulling the second time? A. Stopped pulling, yes.

Q. Will you mark where she was before the steamer started pulling?

A. A little off here; about here.

Mr. WARREN.—Witness marks; call this "Halcyon-3a," "Halcyon-4," as being the position of the schooner at the time the line was put on the second time.

Q. How long after the steamer stopped pulling the second time was it before the pilot and Captain Olson went over to the steamer?

A. Safe anchorage, *then*, then the captain and pilot went over to the steamer.

Q. What do you call the safe anchorage?

A. Where we laid over night, the next night.

Q. You say that after she had been towed about a hundred feet then the steamer stopped, then this conversation took place about wanting the steamer to take you to a safe anchorage? A. Yes. [56]

Q. Now, between that time and the time that the pilot and captain Olson went over to the steamer, did the steamer move at all?

A. Well, sure they moved. Captain Olson and the pilot, they didn't went over to the steamer until they had us in safe anchorage.

Q. So that after she had pulled a hundred feet,

(Deposition of Fred Sach.)

then she pulled you some more?

A. Yes, sure. Then she pulled us to safe anchorage.

Q. How much did she pull you?

A. Somewheres around the "Enterprise."

Q. Now, will you mark on this map the position of the schooner when she let go that tow in what you call safe anchorage?

A. There's the "Enterprise," the bow; and our bow was about sixty or seventy feet from the "Enterprise."

Q. On the wharf side or opposite side?

A. Went all around on the wharf side, inside like.

Q. You were between the "Enterprise" and wharf? A. Yes. Close to the "Enterprise."

Q. And you lay there all day with two lines on?

A. Yes, she had two lines.

Q. Up to what time the next morning?

A. I don't know; I'm not positive about the time we went alongside the next morning. We let go the lines the next morning and went alongside the Enterprise and discharged some freight.

Q. It was all that day and the night following before you let go the lines?

A. Before we let go the lines, yes.

Q. During that time do you know whether Captain Olson went ashore? A. No, sir.

Q. Do you mean he didn't?

A. Not to my knowledge.

Q. Do you know whether he tried to?

A. No, sir. After we got to safe anchorage he

(Deposition of Fred Sach.)

turned in to sleep. He was up all that night.

Q. Now, I want to go back just a little bit. At the time you say there was a conversation as to the steamer taking you further [57] out, had the steamer, up to that time, used her propellers or was she just heaving on her anchors? Do you know?

A. No, to my knowledge, I don't know; not to my knowledge. The way he looks to me he just was heaving on his anchors.

Q. When this conversation was held about taking you out further, she took up her anchors?

A. She must have.

Q. Then she steamed?

A. Then she steamed, yes.

Q. You know that? A. Yes, sir.

Q. And how long a time were you stopped there at that first stop after you had come a hundred feet, how long a time did you stay in that position?

A. I didn't keep track of the time. I ain't sure of the time.

Q. A short time? A. Maybe half an hour.

Q. During that time were there two lines on the vessel?

A. Yes, sir, there were two lines there all of the time. He had first one line a little before he come out with a bigger line. Then there was two lines on the vessel when she was laying there.

Q. So that after she had come out, you say, about a hundred feet, was the second line put on?

A. No, she was on before that.

Q. Before that? A. Yes.

(Deposition of Fred Sach.)

Q. Those two lines having been put on remained on until you had gotten out to a safe anchorage?

A. Yes, they was on until we got to a safe anchorage.

Q. Out there were any changes made in your lines?

A. Same lines.

Q. Did the steamer let go the lines at all in moving and then take them on again out near the "Enterprise"? A. No.

Q. Do you know that?

A. I'm sure they couldn't have done that. I'm sure of that. Them two lines when we had them fast they stayed there until we come to safe anchorage; nothing happened.

Q. And when you got out to the safe anchorage were those same lines still without any change, or didn't they change the lines there? [58]

A. I don't believe so.

Q. You don't know?

A. No, I ain't sure. I think that's the same lines.

Redirect Examination.

Mr. RUSSELL.—Q. You spoke of being tied a little off the wharf there. That is, with the lines running to the buoys and to the wharf, and the position being some distance off the wharf? A. Yes.

Q. Isn't that the way you tied up for the night every night?

A. Yes, that's the way we tied up for the night every night, so she don't chew in.

Q. And did she do that? Chew?

(Deposition of Fred Sach.)

A. I say we do that in order to stop her from chewing.

Q. You spoke on your direct examination, also on your cross-examination, of running your headline out to the buoy there after you broke off from the wharf. Well, now, was that done before or after the lines were pulled?

A. You mean the time we went in the boat?

Q. Yes. A. Before the lines were pulled?

Q. Did you show the point of this hawser, that is, the tow line that was broken to Captain Mosher?

A. He seen it himself; didn't show it to him. The man was down pretty near alongside of it.

Q. Was there any other line there of thirty-fathom?

A. No, sir, we didn't have a piece of rope on board or another one like that.

Q. You saw Captain Mosher at one time on the vessel when this rope was there?

A. Yes, I seen him there. He was there when the line carried away. The pilot, you mean?

A. Yes, Captain Mosher.

A. I don't know the gentleman's name; the pilot.

Mr. RUSSELL.—That's all. [59]

Recross-examination.

Mr. WARREN.—Q. At the time that the line parted, you say Captain Mosher was there?

A. There was no pilot on board the time the first line parted, but he kept seeing the line laying there afterwards when he came aboard. That's what I mean to say.

(Deposition of Fred Sach.)

The COURT.—Q. Don't you know what direction the wind was blowing?

A. No, sir, I ain't got no idea the way the wind stands there.

Q. Can you say what direction the wind was blowing in relation to the wharf?

A. The same as the wharf was, that's the way I see was running.

Q. What was it that made the "Halcyon" swing out from the wharf, away from the wharf?

A. The stern-lines parted.

Q. If the wind was toward the wharf, why should she swing from there?

A. It must be the undertow.

Q. And I understand you to say that the wind was blowing right straight to the wharf?

A. The sea was running.

Q. Don't you know how the wind was blowing?

A. Right in same way.

Q. Was the wind blowing that way?

A. It wasn't from this way, it must have been this way.

Q. You drifted down to here and then what made a swing out to here?

A. My opinion that the current going out of this creek here. The current comes there and swings it. That's the only thing what I could see to keep us out of there.

Q. And when you were here, the furthest distance in, how far were you from the breakers?

(Deposition of Fred Sach.)

Mr. WARREN.—“Here” is “Halcyon-4.”

A. When we was the nearest ashore?

Q. Yes.

A. About two hundred feet right from the beach.

Q. Weren't the breakers very heavy?

A. I could see the ground swell, but it never broke.

Q. Were not the breakers very heavy? [60]

A. They wasn't breaking on top. We wasn't in that.

Q. They showed very plainly?

A. Yes, they showed up.

Q. How far were the breakers from the shore?

A. The breakers were astern from us, about a hundred feet away from us where they broke. We were off about two hundred feet from the beach, from the sand and the breakers, I don't think they ran in further than a hundred feet.

Q. That rope that broke, how old was it?

A. Rope from the boat?

Q. Yes.

A. Brand new; I think the first time they used it. It looked new to me.

Q. Do you know what kind of a bottom it was here where you let out your anchor?

A. No, sir, I got no idea.

Deposition of J. F. Joseph, for Libellee.

Direct Examination of J. F. JOSEPH, a witness on behalf of Libellee, called and sworn.

Mr. RUSSELL.—Q. Your name is J. F. Joseph?

A. Yes, sir.

Q. And you are the first mate on the “Halcyon”?

(Deposition of J. F. Joseph.)

A. Yes, sir.

Q. And you were the mate on the 12th. or 13th. of January, this year? A. Yes, sir.

Q. You came on the "Halcyon" off Hilo harbor about the 9th of January?

A. On the evening of the 9th.

Q. Were you aboard of the Halcyon on the evening of the 12th? A. The evening of the 12th?

Q. Yes. A. Yes, sir.

Q. And that was the evening when she broke her moorings? A. Yes, sir. [61]

Q. Now, where was the vessel located there on the 12th? A. When she broke her moorings?

Q. Yes. A. She was made fast to the wharf.

Q. The railroad wharf?

A. The railroad wharf.

Q. And on what side?

A. She was on the waterfront side.

Q. On the Hilo side?

A. On the Hilo side, yes.

Q. In what manner was she held there?

A. She was held there with a nine-inch line forward from the starboard bow, and a little over thirty fathoms of chain; on the port bow, thirty fathoms of chain on her anchor, and then she had a nine-inch line aft; starboard inshore line; and she had a six-inch line on the offshore side.

Q. Any anchors out?

A. One anchor out; port bow.

Q. Which was that? A. The port anchor.

Q. And you had two anchors on the vessel?

(Deposition of J. F. Joseph.)

A. We had two anchors on the ship, yes.

Q. What size of anchors?

A. The starboard anchor was an anchor, I should judge, about 1800 ton, and the anchor that's out, about 1500.

Q. You spoke of the moorings breaking, the lines breaking? About what time did that occur?

A. When the vessel broke her head-lines, about half-past nine that night.

Q. It was the head-line that ran to the wharf?

A. To the wharf, yes, sir.

Q. Now then, you state what occurred?

A. Well, after that head-line was carried away, I saw she was drifting down on the little "Ka Moi" then I called the captain and the second mate and we ran out and called the crew.

Q. Where was the "Ka Moi" situated with reference to the vessel?

A. She was right astern of us on the same side of the wharf.

Q. And how far from it?

A. She was probably less than a hundred feet astern of us.

Q. Proceed.

A. As I say, I called the captain [62] and we called the crew and let go of the starboard anchor right away before the vessel had got so far. Then she was right under the "Ka Moi's" bow and then we called all hands aft to pull on the offshore breast-line.

Q. The offshore breast-line is the line that ran?

(Deposition of J. F. Joseph.)

A. To the buoy.

Q. In which direction?

A. From the port quarter off from the wharf.

Q. What buoy was that?

A. That's the last buoy in.

Q. All right, proceed.

A. Well, we got that line hauled taut as much as we could by hand, then we hove a little on *the which* one it was I don't know. I couldn't see. When I seen that she had shipped clear of the "Ka Moi's" gi'boom, I hollered to the men to come aft to pull away on the other line, which they did. In the meantime, the first time, that was the time the "Ka Moi's" boom was coming down on our boat, we got out of danger. When we got in we laid there until three o'clock. We were fast both to the buoy and to the ground; that is with the anchors.

Q. How far had you proceeded from the place where you were originally?

A. Well, we had probably away from that wharf about probably six hundred feet.

Q. How far from the wharf were you when you were tied up originally?

A. How far were we? Well, when we made fast to the wharf we were about four feet off.

Q. You went out to a distance of about how many feet?

A. About six hundred feet off the wharf.

Q. When you got out there to that distance you were held in what manner?

(Deposition of J. F. Joseph.)

A. We were held by the two anchors forward and the bow-lines.

Q. And was that the same buoy-line that was on there originally?

A. The same buoy that was on there originally when she was brought in by the pilot and made fast to the wharf. [63]

Q. After you let go her anchors, did she continue to drift or do anything?

A. Well, we let go the starboard anchor in the first place; when I told you a while ago that I noticed she was drifting down she drifted down a little bit more.

Q. Then what was done?

A. After we hauled her up to the buoy, we couldn't do any more. We were fast to the ground and fast to the wharf. Then about three o'clock the captain came and called me. She was drifting in towards Wainaku, so we come to the conclusion we would get a new line, six-inch, and we ran this line to the same buoy.

Q. At this point had she drifted any distance from the time she was tied up there in the evening?

A. Yes, of course, she had drifted.

Q. About how far?

A. Well, I couldn't exactly say; probably she had drifted about the same distance, five or six hundred feet.

Q. Then what was done?

A. Then we ran that line to that buoy, but before they got to that buoy with that line, the first line that was on that buoy, snapped and, of course, when

(Deposition of J. F. Joseph.)

that line snapped, she threw her stern around over towards the mouth of Wainaku Creek. Then we got the second line. We got that to the buoy; then the vessel seemed to be in a dangerous place. I suppose the captain thought it best to signal.

Q. And then was there a signal given?

A. What is that?

Q. And then was there a signal given?

A. Then the captain used a flare-up light.

Q. And what occurred?

A. After the flare-up light was used, a little while after that, we heard a whistle and we noticed the "Niihau" had changed from her anchorage that night; she seemed to be coming over ahead of us and then she dropped her anchors. She had a boat was in the water all the time; and the boat was [64] coming towards our bow with a line on it, and we came down, took a line, and made it fast to the foremast.

Q. How long a time had elapsed from the time that you flared up your bluish signals until you got this tow-line aboard; until they came with the tow-line? A. Well, it was less than an hour.

Q. Was it close to an hour?

A. Pretty near to an hour.

Q. During that hour had the vessel moved any?

A. She didn't seem to me to have moved any.

Q. All right, now go ahead.

A. After we got that tow-line fast we had to pick up our anchors, and in attempting to weigh anchor, we lost the port anchor.

(Deposition of J. F. Joseph.)

Q. But this occurred after you got the tow-line tied to the vessel?

A. After the tow-line was made fast to the mast. Then we had to take up our starboard anchor. We got that ready to let go. Maybe he started towing on there, I don't know. I know he didn't have that tow-line on, must have been heaving on it and he heaved on that for quite a little while, for probably an hour, and then he started towing on us, and he hadn't been towing on us very long when that tow-line snapped. I was right there alongside the windlass when it snapped. I let go the starboard anchor.

Q. How long a distance were you towed when the anchor, when the tow-line snapped?

A. We were towed about probably six hundred or seven hundred feet.

Q. Well, then, you say you shipped your starboard anchor? A. Dropped the starboard anchor.

Q. Then what occurred?

A. After we dropped the anchor we paid out about twenty-five fathoms of chain and we lay there; then the wind got squally. We lay there and after a while she started to drag.

Q. Now, at this time, what was the direction of the wind? [65]

A. The wind, I should judge, about from north-northeast to north.

Q. And was the wind practically the same during the entire period with reference to direction?

(Deposition of J. F. Joseph.)

A. Yes, just about the same.

Q. And what was the direction of the swells, the sea?

A. Well, the swell probably was a little to, probably about north; might be a little to the westward of north.

Q. Now, after your starboard anchor was let out, what occurred?

A. Well, then, the vessel started to drift. She drifted, kept drifting and drifting and drifting right in towards the beach.

Q. And about how long had you drifted before the flags were put up?

A. All of two hours; probably more, but nothing less than two hours.

Q. During that time did you see the "Niihau"?

A. Yes, we saw her lying at anchor ahead of us.

Q. Did you see the life-boat there?

A. Now, I can't be sure whether her boat was in the water or not. I think it was in the water, and I think it was on the port quarter, made fast to the vessel.

Q. Do you remember when the flags were put up?

A. Yes, I remember that.

Q. How close to shore were you?

A. Well, when the flags were put up we might have been a hundred feet further from the first line of the surf.

Q. That is, the breakers?

A. The first line of the breakers, yes.

Q. And did you receive any response to the flags?

(Deposition of J. F. Joseph.)

A. Then, of course, when the flags went up, the "Niihau" she sent a boat down with another line to us.

Q. How long a time did it take that line to get to you after you put up your flags?

A. Probably inside of ten minutes.

Q. And what was done then?

A. Well, we got that line fast to the bit on the fo'e's'le-head and I think they tightened it, and then the "Niihau's" boat went back and give us another line.

Q. Now, did they, did the crew of the "Niihau" have any difficulty in going to you there?

A. Not that I could see. They had [66] a surf-line in their boat.

Q. And how did they get the line to you?

A. They simply backed away with their oars and as they did that simply payed out their line, allowing the boat to drift close enough to throw us this line.

Mr. WARREN.—It is agreed that this map upon which the witness Sach marked, may be marked for identification. (Libellee's Ex. "A.")

Mr. RUSSELL.—Q. I show you Libellee's Exhibit "B," identification.

Mr. WARREN.—A duplicate of the map of Hilo Bay.

Mr. RUSSELL.—Q. I will ask you if you recognize this as a map of Hilo Bay?

A. Yes, that's the map of Hilo Bay.

Q. Do you recognize this as the railroad wharf?

(Deposition of J. F. Joseph.)

A. Yes.

Q. Now, will you indicate there where the "Halcyon" was moored before she broke her line?

A. She was moored, I should judge, right about in here. (Indicating.)

Mr. RUSSELL.—Indicated as "Halcyon-1."

Q. Now, will you indicate there the position of the buoy to which the breast-line was tied as near as you can recall?

A. Well, that buoy should be about, I should judge, about in here.

Mr. WARREN.—Buoy-1.

Q. Now, what is your estimate of the distance from the wharf to the buoy that you have indicated here as Buoy-1? A. About three hundred feet.

Q. And where were you when the flare lights were flashed?

A. Just about here. (Indicating.)

Q. Will you just mark a little mark there indicating her position? That is, you note there the position, the location of the vessel. Will you, also, at the same time, draw a line there which would indicate her position?

The COURT.—You mean her length?

Mr. RUSSELL.—The length, yes.

A. (Witness marks.)

Mr. WARREN.—Witness makes mark indicated as "Halcyon-2." [67]

Mr. RUSSELL.—Q. Now, where was the buoy to which the "Halcyon" was tied when she was in a position that you have marked as "Halcyon-2"?

(Deposition of J. F. Joseph.)

A. That buoy ought to be about, that's the same buoy here, only that I've got this buoy a little too close to the wharf, but that was the same buoy.

Q. Now, as you have more closely examined the map, do you wish to make any changes with reference to the probable location of that buoy?

A. Well, I should say that the buoy ought to be over here.

Q. Then will you mark that?

A. (Witness marks.)

Mr. WARREN.—There is no objection to erasing the first mark.

Mr. RUSSELL.—Q. Now, at the time that the vessel was tied to this buoy, how far was she from the buoy at the time that you ran that line, that is, in the morning, out to the buoy? How far from the buoy was she? A. About three hundred feet.

Q. Now, when the tow-line was given you by the "Niihau," you were in about the position that you have indicated here as "Halcyon-2"? A. Yes.

Q. That's the first time?

A. The first time, yes.

Q. And in which direction did you proceed in that short tow that was made?

Mr. WARREN.—I object to that. The witness hasn't testified to any short tow.

The COURT.—Overrule the objection.

Q. Did you testify as to the distance that the "Halcyon" was towed? A. Yes, I think I did.

Q. Well, how far was she towed?

A. About six hundred feet.

(Deposition of J. F. Joseph.)

Q. That is, when the tow-line broke?

A. Yes.

Q. Now, in what direction did she proceed?

A. She seemed to me to proceed out this way.

Q. To the west of the buoy?

A. Yes, to the westward of the buoy. [68]

Q. And will you please indicate here about the position of the "Halcyon" at the time the tow-line broke?

A. (Witness indicates.) Might be about in here. I should judge it would be.

Q. Now, will you draw a little line there so as to indicate her position? A. (Witness draws.)

Mr. RUSSELL.—This will be indicated as "Halcyon-3."

Q. Now, from the position as you have just noted it, in what direction did the vessel drift?

A. She seemed to drift about this way.

Q. Then will you make some *dated* lines indicating the direction that she proceeded from "Halcyon-3"? A. (Witness draws.)

Q. And the end of the dotted line is the point—

A. She would be in that far. She was about in here. (Indicating.)

Q. About in there? A. Yes.

Q. Now, will you mark a little oval, draw a little oval as indicating the position, the location of the vessel at the time when the signal was hoisted?

A. (Indicates.)

Mr. RUSSELL.—It will be indicated as "Halcyon-4."

(Deposition of J. F. Joseph.)

Q. Do you mean that is the correct position?

A. That's the way I mean.

Q. From "Halcyon-2" to "Halcyon-3," did she proceed without being towed?

A. That I couldn't say because he partly towed and he partly heaved on.

Q. Do you recall the vessel "Enterprise" being anchored in the harbor? A. Yes.

Q. Now, will you indicate on the map here about where she was anchored. Do you recall?

A. (Indicates.)

Q. Will you draw the oval shape? (Witness draws.)

Mr. RUSSELL.—I will mark that "Enterprise."

Q. I will ask you if you recall whether you saw the "Enterprise" as she was anchored from any of the streets?

A. No, I take that position from how she appeared to me to lay.

Q. Now, how much of that tow-line did you have aboard the "Halcyon" [69] after it was parted?

A. Well, I should say about twenty-five or thirty fathoms.

Q. And how much of that line was used in tying her; that is, was used aboard the vessel?

A. Well, about fourteen feet.

Q. Now, you have mentioned the direction of the wind. Will you, up here, draw some lines indicating the direction of the wind?

A. (Witness draws.) That's the way the wind blew.

(Deposition of J. F. Joseph.)

Q. Now you are gauging it according to this compass; now irrespective of this compass, does that accord with your recollection?

A. Yes, the same exactly.

Q. Irrespective of the points of the compass I want you to mark the direction of the wind as you recall it. A. (Witness draws.)

Mr. WARREN.—Witness draws two arrows.

Mr. RUSSELL.—Q. And then the swells?

A. The swell.

Q. Yes.

Mr. WARREN.—Let the two arrows already drawn be marked "wind," please.

Mr. RUSSELL.—One arrow which is marked swells.

Q. Now, when you flared your lights, when you flashed your lights, the first time, how long elapsed before a line was given you?

A. Pretty near an hour.

Q. And I think I asked you if during that hour, did the vessel move? A. No, no, she was fast.

Q. Did you see the boat there, the small boat; that is, the life-boat, steamer's boat there before a boat came out there? A. Yes, I seen a boat.

Mr. WARREN.—First or second time.

Mr. RUSSELL.—First time.

A. I seen a boat but I didn't know whether it was the steamer's or whether it was the "Ka Moi's" boat.

Q. And there were some people in it?

A. There were some people in it. [70]

(Deposition of J. F. Joseph.)

A. There were people in it.

Q. Did you hear the captain say anything?

A. No, I didn't hear him say anything.

Q. Now, at the point where the flags were put up, the flag signals were put up, did you take any soundings? A. Yes, sir.

Q. And what did you determine?

A. Very near eighteen feet of water.

Q. And how many feet did the "Halcyon" draw?

A. The "Halcyon" at that time was probably drawing little over twelve.

Q. Did you strike bottom? A. No, sir.

Q. And you were towed from there where to?

A. We were towed out to a safe anchorage.

Q. And that was in the vicinity of where?

A. The "Enterprise" lay, yes.

Mr. RUSSELL.—That's all.

Cross-examination.

Mr. WARREN.—Q. During the first tow, what was the approximate distance between the steamer and the schooner?

A. It was about between six and seven hundred.

Q. What?

A. Probably about six hundred feet.

Q. And was that distance lessened by her heaving in on the line?

A. Yes, that distance got lessened when she was pulled in.

Q. After she had gotten it straight she started to pull? A. Yes.

(Deposition of J. F. Joseph.)

Q. How long a time was taken during that first tow until the line parted?

A. Well, we had gone from the time we got the line until it parted from us, say about an hour.

Q. And have you any idea of what time of the day it was, what time in the morning it was, that the line broke?

A. The line broke a little after six in the morning.
[71]

Q. And when that happened, did the schooner have any lines to any buoy?

A. No. That buoy that we had was gone.

Q. And then your anchor, your remaining anchor, was dropped?

A. Our remaining anchor was dropped, yes; the starboard anchor.

Q. How long did she lie there before she began to drift again?

A. Well, she seemed to lie there just only a little while, and there was a squall came along; she started to drift.

Q. When you dropped your anchor when the line parted, did you attempt to run any other line?

A. We didn't have any other line.

Q. What had become of the line?

A. As he kept towing us, we kept paying that out.

Q. Was any attempt made to get that line again?

A. The line had got foul down at the bottom, probably around the anchors.

Q. Tell us about that effort. Who did they, who tried it?

(Deposition of J. F. Joseph.)

A. It was one of the launches there. I don't know which one it was. Then other people tried to get the line, but that was after we had got out to safe anchorage.

Q. So that no effort was made to get a line to any buoy after it broke the first time?

A. We didn't have any line.

Q. How far were you from the buoy at that time?

A. We were about, well, I don't know, probably eight hundred feet; seven or eight hundred feet.

Q. And how long was your line?

A. That line I should judge was a full length; I think about 120 probably, 110 or 120 fathoms.

Q. Then did the steamer change her position at all between the first and second tows?

A. The "Niihau"?

Q. Yes. A. I don't think he did.

Q. Would you say that she did not, or you're not sure about it?

A. I'm not sure about it. After the tow-line was dropped I [72] didn't notice where he went until we was too busy aboard our own vessel.

Q. You don't mean, dropped the tow?

A. I mean, after the tow-line parted.

Q. And between that time and the time the lines were put on for the second time, you don't know whether the steamer moved at all?

A. No, but I know the second time he put the tow-line on us that he got his anchor up and came over.

Q. You say about an hour elapsed from the time of the flash till you had the line? A. Yes.

(Deposition of J. F. Joseph.)

Q. How did the steamer go about sending you that line?

A. Well, she dropped her anchors and ran out a small boat, one of the whale boats with a line.

Q. And when did Pilot Mosher come out?

A. He came out, but while he was on his way out, when the captain hoisted the distress signals out—

Q. Do you know whether he had gotten outside the creek *but* that time or not?

A. He was outside the mouth of the creek. He was headed over toward us.

Q. When you put the flags up?

A. Just about the time the captain was getting the flags up. It must have been him. There were so many launches out there. When he got the flags up, Captain Mosher was there. The first I seen him, that is, to recognize it as being him, he was alongside us, and he was broken down there.

Q. And it took him some time to get on board?

A. I think he let go his anchor. He must have let go his anchor.

Q. Where did his launch bring up when he arrived? A. Right astern of us.

Q. How far from the shore?

A. His launch wasn't a very long distance from the shore.

Q. Did you have your attention called at any time to a black object on the beach, near the water line, a boiler? [73] A. Yes, I seen that.

Q. Were you anywhere near that?

(Deposition of J. F. Joseph.)

A. No, she was headed, she was pointing in towards where that boiler was lying on the beach.

Q. Her stern was?

A. Not exactly her stern; her quarter.

Q. And her bow heading towards where?

A. Her bow was heading towards Hilo mill, sugar mill.

Q. The two lines you put on the second tow remained on until you had gotten out to a clear place?

A. Yes.

Q. And was there any stopping in the work of towing after the tow-lines had been made fast until you got out there?

A. No, they seemed to walk right along with her.

Q. Heaving on the chains first?

A. He had to heave his anchors up first.

Q. Before heaving up the anchors he heaved on his chains? A. That I couldn't say.

Q. First he got one line fast and then the second?

A. Yes.

Q. And do you know anything of any conversation or signals that occurred between the two vessels during the towing out that she should get out to a safe place? A. Not that I can remember.

Q. When did you let go your anchor?

A. I let go the anchor when Captain Mosher told me to.

Q. Was any signal made to the steamer to stop towing? A. That I couldn't say.

Q. You just got the order to let go and you did so?

A. I let go.

(Deposition of J. F. Joseph.)

Q. Then what did Captain Mosher and Captain Olson do?

A. They held a private consultation. Whatever it was I don't know.

Q. Then what did they do?

A. Then they got in, I think, Captain Mosher's launch and they went over to the steamer.

Q. Then what was done?

A. One of the lines, the steamer's heavy line, remained fast to the foremast all that day and all that night. [74]

Q. Did the steamer change her position after Captain Olson and Captain Mosher went away in the launch? Did the steamer change her position?

A. I think he did, yes.

Q. The lines were disconnected temporarily?

A. No, but I think he did change his position.

Q. And then you remained to next morning?

A. Next morning.

Q. Do you know whether Captain Olson went ashore at all that day?

A. That I couldn't say. I'm not sure.

Mr. WARREN.—That's all.

Deposition of Nels Piersen, for Libellee.

Direct examination of NELS PIERSEN, a witness on behalf of libellee, called and sworn.

Mr. RUSSELL.—Q. Mr. Piersen, you were a member of the crew of the "Halcyon"?

A. Yes.

Q. And you came in with the "Halcyon" on the 9th or tenth of January into Hilo harbor?

(Deposition of Nels Piersen.)

A. Yes.

Q. Do you remember the night of the 13th, when she lost her moorings? A. Yes.

Q. On the 12th. About what time was it?

A. The first time it was about nine o'clock. May have been a few minutes before or may have been a few minutes after.

Q. After she broke away what occurred? What was done?

A. Well, we let go the other anchor and we hauled taut the lines, the offshore lines to the buoy.

Q. Then you remained there until about what time?

A. About half-past two or three o'clock. Somewheres around there.

Q. And then what happened?

A. Well, then we ran another line out to the buoy.

Q. And that was about half-past two or three, you say? A. Yes.

Q. Do you remember any schooners being around?

A. Yes, the "Ka Moi." [75]

Q. Some lights? A. Had some lights there.

Q. Was that before or after she was tied to the buoy; before or after you ran that line to the buoy?

A. Well, I think that was just about the same time.

Q. Which was done first?

A. Well, we start in with the line first before she seemed to be in trouble.

Q. Then what happened afterwards? Did somebody come with a tow-line?

(Deposition of Nels Piersen.)

A. I seen a boat pass coming out of the channel there and there was somebody speaking; whoever it was I don't know.

Q. Speaking to who? A. To the boat.

Q. Did you hear the captain speak to him?

A. I couldn't say for sure because he was forward, or wherever it was, it was pretty hard.

Q. And then later on someone came with a tow-line? A. Yes.

Q. How long after the lights were alongside was it that they came with the tow-line?

A. That may have been about an hour.

Q. Now, during that hour, did the vessel move at all?

A. No. Well, she moved, yes, but she didn't drag in towards the beach.

Q. How much did she move?

A. That's mighty hard telling.

Q. Did she move away from the buoy?

A. Yes, she moved away from the buoy. She ran over the side towards them boilers.

Q. What is your best judgment as to the distance that she moved?

A. Oh, probably a couple of hundred feet.

Q. Do you recall whether she was around the two hundred or not? A. No, I didn't take any notice.

Q. And then do you remember when the tow, when it tightened up on the tow-line? A. Yes.

Q. What was done?

A. We was starting to heave in our anchors.

Q. And what anchors were heaved in? [76]

(Deposition of Nels Piersen.)

A. Starboard anchor.

Q. And around to the other anchor?

A. That carried away when we started to heave on it.

Q. What was done with reference to the line of the tow. What happened, if anything happened, to the tow-line? A. The tow-line carried away.

Q. And how long had you been towing when that happened? A. About half an hour, I guess.

Q. I mean the distance?

A. Oh, about one hundred and fifty to two hundred feet, I guess. Of course, I couldn't say for sure exactly.

Q. This line to the buoy that you had and that you were slacking up, had you gone the length of that line? A. Yes, I didn't have no more.

Q. And then what was done after you lost the tow-line? What was done?

A. Then we dropped our anchor.

Q. This was about what time?

A. That must have been about half-past six or something like that.

Q. Half-past six that you dropped the anchor?

A. Seven o'clock. I don't know exactly the time.

Q. Do you know what happened to that tow-line?

A. No, I do not.

Q. Did you see any part of that line on the vessel?

A. I saw the end after we hauled it in.

Q. And about how long a line did you have?

A. Oh, about I should judge, twenty-five fathoms.

Q. And then after you got out your anchor did

(Deposition of Nels Piersen.)

you hold there or did you drift?

A. No, we start to drift pretty near right off.

Q. How long?

A. At least five minutes or ten minutes, afterwards we noticed she start to drift.

Q. And then do you remember when the flags were hoisted? A. Yes. [77]

Q. About how near to the shore were you?

A. Oh about couple of hundred feet; or may have been more.

Q. Did you strike? A. No.

Mr. RUSSELL.—That's all.

Mr. WARREN.—No questions.

Monday, February 2, 1914.

Deposition of Wm. Clover, for Libellee.

Direct examination of WM. CLOVER, a witness on behalf of libellee, called and sworn.

Mr. RUSSELL.—Q. What is your full name?

A. William Clover.

Q. You are a member of the crew of the "Halcyon"? A. Yes, sir.

Q. And you came in with the "Halcyon" in Hilo harbor the early part of last month? A. Yes, sir.

Q. Now, do you recall docking at the wharf, the railroad wharf in Hilo harbor? A. Yes, sir.

Q. Do you remember the night of the 12th of January, when you broke loose from the moorings?

A. Yes, sir.

Q. Now, will you tell about what time was this when you broke loose?

(Deposition of Wm. Clover.)

A. When we broke loose? Between eight and nine o'clock.

Q. Now, on which side of the wharf were you moored?

A. We were moored on the left-hand side of the wharf.

Q. That is, on the Hilo side?

A. That is on the Hilo side, yes. [78]

Q. And will you state just what happened at the time? A. Yes.

Q. Well, I'll withdraw that. In what manner were you tied?

A. We were tied with the head-line, stern-line, and our own line. We had two stern-lines out; we had two breast-lines out, and an anchor down.

Q. Now, you were tied on one side of the wharf, and how on the other side?

A. On the other side we had nothing.

Q. What is that? A. On the Hilo side?

Q. Yes.

A. We had two breast-lines, and two buoys; one forward and one aft.

Q. Will you state what occurred when you broke away?

A. When we broke away from the wharf, first the head-line carried away.

Q. The head-line to the wharf?

A. The head-line to the wharf carried away.

Q. Yes.

A. Then we called out the crew and we let go the

(Deposition of Wm. Clover.)

starboard anchor; then after that, at the same time we let go the starboard anchor, we started to drift down to that little schooner there.

Q. The "Ka Moi"?

A. Yes. And we had a little trouble for to get clear of her, and then we hauled taut to the stern breast so we got clear of her, and that way we lay to, I ain't quite sure, three o'clock in the morning; something like that.

Q. Then what did you do?

A. Then the wind was breezing up some. The captain called us up. He said we had to get a line and a line to the buoy; so we stood here so I went in a boat with two men and ran a line to the buoy, a six-inch line we got that at the time. When I come back to the boat we lost the port anchor.

Q. Now, how long a line was that that you—

A. That I ran?

Q. Yes.

A. Well, I couldn't tell exactly, the length of the hawser. It's a new coil of rope. [79]

Q. What's that?

A. That was a new line. I think the line only was used once; something like that.

Q. That was what line?

A. What ran to the buoy. I guess the captain knew the length of the line.

Q. What's your best recollection?

A. Well, I couldn't give you no length of that line, but it's a full length line. I can't give now exact length to it.

(Deposition of Wm. Clover.)

Q. Then when you came back to your boat as you say, what happened then?

A. When we went in the boat we had a head sea and went against us to get to the buoy, so I couldn't tell exactly how long we were running that line because we missed the buoy once; we had to go back to her again to try to work our way from the buoy.

Q. When you were out to extend the line to the buoy, how many anchors were down?

A. We had two anchors down.

Q. Now, when you got back to your boat, what was done?

A. When we got back to the boat and I come out to the boat and went forward we was going to heave in some on the anchor and I went try and I see that it was snapped. I didn't hear it. One anchor carried away.

Q. And the anchor carried away or snapped you say while you were trying to heave them in?

A. You see, the anchor was gone when I got aboard.

Q. When you got aboard?

A. When I got alongside the vessel and I was told that the anchor just went.

Q. And was that when you were extending a line to a buoy? A. The line was fast.

Q. The line was already fast?

A. The line was fast and she was hove taut.

Q. Do you recall the lights being flashed?

A. Yes, sir.

Q. Now, with reference to that time when did the anchor loosen or break or drag? Was it before or

(Deposition of Wm. Clover.)

after the lights were flashed? [80]

A. After the line was fast to the boat and we give her little more chain on them, that is the starboard anchor—

Q. Now, when was it that the lights were flashed?

A. The lights were flashed, the captain was flashing the lights then. In fact, quite awhile.

Q. And now did he flash the lights before or after you tied the boat to the buoy?

A. I believe the captain flashed it both before and after.

Q. You say he flashed the lights before and after?

A. I believe so; I ain't quite positive sure.

Q. Well now, with reference to the anchor breaking, the anchor chain breaking or the anchor dragging. Do you know whether that was before or after the lights were flashed?

A. Well, if they had been before, then it should have been before the lights were put out, then the captain must have flashed the light before.

Q. I'm asking you, Mr. Clover, as to your recollection.

A. Now I remember it was the light she flashed before the line was put out, I'm sure.

Q. And about how long before?

A. Now, it's hard to tell in a guess like that exactly how long it is. Maybe ten or fifteen minutes. Something like that.

Q. Well now, when you got back to your vessel, what happened then?

(Deposition of Wm. Clover.)

Mr. WARREN.—Is this before or after he got back?

Mr. RUSSELL.—I say after he got back, after the lights were flashed.

A. After I got back to the vessel the steamer came down and gave us the line.

Mr. WARREN.—I object to the question as ambiguous.

The COURT.—Of course, we want to get it as clear as possible.

Q. You say the lights were flashed before you got back to the ship and also after you got back?

A. Yes.

The COURT.—Twice. Now what were you asking about? [81]

Mr. RUSSELL.—Now I'm asking him, after he got back on the vessel and after the lights had been flashed.

The COURT.—The second time?

Mr. RUSSELL.—Well, after the lights were flashed, what occurred?

Mr. WARREN.—I object to that unless he specifies which time.

The COURT.—Yes, I think the objection is right.

Q. Now, the lights were flashed when you were out fixing that line. When you came back to the ship then they were flashed again, were they?

A. When we came back to the ship, I don't recollect the captain flashing the lights. I think that was done before I put the line out.

(Deposition of Wm. Clover.)

Q. State what occurred after you got aboard the vessel.

A. After I got aboard of the vessel we went forward.

Q. Do you recall whether anything occurred with reference to either of the anchors after you got back on your vessel?

A. No, there was nothing occurred to our anchor then; we had lost the port anchor. We had the starboard anchor and the line; that's all we had.

Q. Did you take part in the heaving of the anchors? A. Yes, sir.

Q. Which one? A. The starboard anchor.

Q. And that was heaved up all right? Was that heaved up?

A. We didn't heave up the starboard anchor before the steamer had hold of her.

Q. Well, then, go on and state from that time on what occurred?

A. Then we had this line to the buoy. The steamer put the line aboard us. She dropped her two anchors first. She sent a line down to us. We made it fast around the mast, the foremast.

Q. How long a time elapsed from the time that you tied the vessel to the buoy, that is, ran out this line, until the line was brought to you from the steamer?

A. Well, that couldn't have been,—when you're working like that you don't imagine the time, so I [82] couldn't give you exactly the time.

Q. What is your best judgment?

The COURT.—They don't want the exact time, but

(Deposition of Wm. Clover.)

they want the approximate time, generally. About how long a time?

A. I don't want to state nothing what I ain't sure of, either.

Mr. RUSSELL.—Surely. What is your best judgment of the time? In your judgment was it less or was it more than half an hour?

A. I should judge it was something around a half an hour.

Q. Now, during that time, was the "Halcyon" fast to the buoy with this line that you had taken out there?

A. She was fast, I'm sure, to the buoy and the anchor, because I had a line from the stern and seen if she was dragging and she wasn't; and furthermore, if she had dragged, she would sure have carried away our line or dragged that mooring buoy. She didn't.

Q. She didn't?

A. No, the buoy is laying in the same place it was before.

Q. And then? What then? Go on and tell what occurred after you tied the line that had been given to you by the steam vessel?

A. Then the steamer give us the line and she was laying, heaving it tight; first she had her anchors out. I couldn't tell you what time it was either, and she started to tow; at last she started to tow and I was slacking away that line pretty hard to the buoy till I got to the end.

(Deposition of Wm. Clover.)

Q. To the what?

A. To the end of the line.

Q. What was done, if anything, about the starboard anchor?

A. The starboard anchor was heaved up, then taken underneath the hawse pipe.

Q. Did you tend to that yourself?

A. I tended to the line.

Q. And do you recall whether at that time anything was done with reference to the port anchor?

A. The port anchor we didn't have aboard.

Q. Was anything done with reference to the port anchor chain? [83] Anything at that time after the steam vessel had given you the line?

A. We couldn't do nothing to the port anchor chain, it was gone. What we had left it was on the deck.

Q. Well, go ahead now; continue.

A. He towed us up on the left-hand side towards the wharf till we got to the end of the line, then I asked the mate what we are going to do. I was slacking all the time. As long as he towed I was giving out, so there was no strain on the line, and I got to the end. The mate said "You can't do nothing"; the mate said, "Let go"; little after that, it couldn't have been long, the hawser snapped.

Q. About how long?

A. I don't think it could have been more than fifteen minutes; something like that.

Q. How long do you think you had been towed?

(Deposition of Wm. Clover.)

How long do you think you had been towed when the towing-line broke?

Mr. WARNER.—In time?

Mr. RUSSELL.—No, in point of distance.

A. Distance?

Q. Yes.

A. I reckon about eight hundred feet.

Q. And then what occurred?

A. As soon as we seen the towing-line snapped we let go the starboard anchor what we had left. That's the only thing we had.

Q. And did she hold?

A. Then she seems to hold a spell and then after that she again start to drag her again over towards the beach on the shore-side of the creek there.

Q. And how far away were you from the shore, if you remember, when the flags were put up?

A. The flags? Close to somewheres around two hundred feet; maybe not two hundred feet.

Q. Well, after the flags were put up, what happened?

A. The steamer come down just as the flags went up, the steamer was down with another line.

Q. What did the steamer do?

A. The steamer anchored ahead of us and she took the boat, the boat went on with a line and went down towards our bow.

Q. After the flags were up how long did it take?
[84]

A. I don't think the flags was just about flying

(Deposition of Wm. Clover.)

when the steamer was down with his line again.

Q. And how many lines were you given?

A. We got first one and then the second. We had two lines to her.

Q. That is, the steamboat didn't carry the two lines?

A. The steamboat ran one first and then he ran the second one.

Q. Do you know in what direction the wind was at that time? A. Now, he should have known it.

Mr. RUSSELL.—Never mind, I'll withdraw that. All right, Mr. Warren.

Cross-examination.

Mr. WARREN.—Q. Did I understand that when the schooner was moored to the wharf that evening before you broke away, you had two breast-lines to the wharf? Did you?

A. We had first one, and one we was working lumber that whole day and at five o'clock and we knocked off the lumber and we could see then it was breezing up so we breasted off from the wharf and we heaved it out six or eight feet from the wharf and the lines we have one forward and one aft.

Q. You had the port anchor out?

A. Port anchor out.

Q. Starboard anchor was still up?

A. The starboard anchor was up underneath the hawse-pipe.

Q. You say along about after you had broken away the first time and collided with that schooner, you

(Deposition of Wm. Clover.)

did collide with the schooner? A. Yes.

Q. And then you got fast again and were lying away out from the wharf?

A. Our line what we ran was run to the buoy that was away from the wharf. We drifted down towards this schooner underneath her gib-boom and then we hauled her off astern and we proceed to the schooner; the schooner was near to the wharf and we were proceeding to her.

Q. You had a breast-line on the shore side on the stern?

A. We had a breast-line on the stern; that's what we hauled her [85] off with.

Q. That was the offshore breast-line?

A. That was the stern offshore breast.

Q. And then the stern breast-line to the wharf, you didn't have that?

A. No, that gives all the stern-lines.

Q. Then I understood you to say when you were engaged in running a new line to the buoy, this new six-inch line, and that after you made that fast to the buoy and had got back and were in a boat alongside when they told you that the port anchor had broken away?

A. When I came aboard again I was told then, it may have been Mr. Piersen, he said our port anchor just went.

Q. That was a few minutes after you had gotten out of your boat and had gotten on board again?

A. Yes.

(Deposition of Wm. Clover.)

Q. How long did it take to get that new line run to the buoy; that six-inch line?

A. I'm pretty sure there was more than half an hour.

Q. It was only a short distance from the schooner, was it not?

A. Yes, but the wind was pretty strong and we had to pull to get to the buoy; it might have been half an hour. In the meantime we were in the boat and got this line fast; they got the line over her stern and it was fast forward; when we got back they were hauling that taut.

Q. As you left the schooner to take that line to the buoy, how was the wind blowing in regard to you, were you ahead of the wind or heading in the wind?

A. We had the wind about the beam. We had to pull across the wind.

Q. Across the wind? A. Yes.

Q. And how long did it take you to get hold of the buoy after you got there?

A. We got there, it took a half an hour to get the line fast to the buoy from the time we left the ship and got the line secure.

Q. Was it what you'd call "run way" in there?

A. It's pretty heavy.

Q. And was the sea the direction of the swells?
[86]

A. Well, the sea was running inshore right the same way as the vessel was lying.

Q. And that six-inch line you say was a full coil?

(Deposition of Wm. Clover.)

A. Full coil-line.

Q. Do you know how many fathoms there are in a full coil?

A. There is different length in a coil. There's some bigger and some smaller. That's the reason I couldn't say.

Q. In a six-inch line there are different lengths?

A. You mean a different length of line.

Q. From your judgment, could you say whether that would be one of the larger or smaller coils?

A. It should have been one of the— Could I ask the captain a question?

Q. No, it is just what you can remember. You handled the line and you also had hold of it as you were paying it out as the steamer was towing you. You don't remember what the length of the line was at all? You couldn't say?

A. It seems to me that line, that's somewheres around 400 feet.

Q. What kind of lights were flashed? Describe the manner in which you gave flashes.

A. Flash lights that we used aboard any vessel; flare-up lights.

Q. Flare-up lights? A. Flare-up lights.

Q. How many times *what done* before you went out in the boat with that new line?

A. I can't tell for sure, but it was done a couple of times to my knowledge. I know the captain flared up a couple of times. I never kept no tally.

Q. How long was that after you had had the en-

(Deposition of Wm. Clover.)

counter with the small schooner?

A. That was between, we was clear of the schooner about ten o'clock, something like that, and we were clear of the schooner.

Q. So these flare-lights were not sent up until about three o'clock, more or less?

A. Yes. Before three o'clock.

Q. Then the flare-lights were sent up before you went out with that line?

A. I think that was before. [87]

Q. That's your best recollection now? A. Yes.

Q. And after you got back you say it was perhaps a half an hour until the steamer line was put aboard?

A. Yes.

Q. Did you? A. Yes.

Q. How long after was it, after you got back, before those flashes, the second flash, if there was a second flash?

A. After I got back, I can't recollect, the captain putting up no flashes; I don't know if he done it twice; more than once.

Q. Were you on board, on deck, all the time after you got back? A. I was aboard all the time.

Q. On deck?

A. On deck. I was on deck all night.

Q. Have you any knowledge of how it happened that the steamer sent a line to the vessel? How did that come about?

A. Well, first when the steamer come down with that, he was going first for that little schooner and

(Deposition of Wm. Clover.)

he come to drop his anchors ahead of us. Before I went on the boat with a line, there was a boat went aboard of the steamer.

Q. Went about the steamer?

A. Supposed to be the purser's boat the captain said afterwards.

Q. That boat that went about the steamer, that come anywhere near the schooner?

A. He was coming away on the side of it and it never came near it and we reported to the captain that he passed the schooner.

Q. Were you on deck of the schooner before you went out with a line to the buoy? Were you on deck a part of the time?

A. I was on deck most of the time; I was down in the cabin for ten or fifteen minutes then I was on deck looking around.

Q. You yourself see anything of that steamer's boat when it passed?

A. It was a dark night. I heard the captain holler to the boat; that must have been little before he called the crew again.

Q. You heard the captain holler to this small boat?
[88]

A. To this small boat, yes.

Q. And heard what he said?

Q. Oh, he asked something about running a line for him.

Q. Did you hear the answer?

A. No, couldn't hear the answer.

(Deposition of Wm. Clover.)

Q. And how long was that before the steamer line came on later?

A. Then after we had to run our line ourself and got back to the vessel and then the steamer came down and dropped his anchors and run the line.

Q. Do you know where the steamer had been lying before that?

A. Yes, she laid, there's the steamer "Enterprise" lying and she lying right close towards her.

Q. Did you see the steamer "Niihau" make her first move, leave her anchorage and come toward you or did you see her after she was down over to the "Ka Moi"?

A. She come in towards the wharf there and she dropped her anchors there.

Q. Is that the first time you noticed her?

A. That's the first time I know she was moving; we were talking about it and we said she will take the little schooner away from there maybe.

Q. How did she come in, bow first or was she backing in stern first?

A. She coming bow first, I should judge and dropped her anchors.

Q. Did you see her come in?

A. It was a dark night.

Q. Couldn't you tell from the lights on the vessel whether she was coming bow first or stern first?

A. I think she come bow first and dropped her anchors and then down towards us and then run her lines on board the vessel.

(Deposition of Wm. Clover.)

Q. The first time you noticed her that night where was she? In the place where she dropped her anchor or was she just lying out by the "Enterprise"?

A. When she started away she was lying by the "Enterprise"; she must have left her anchor.

Q. You didn't notice that?

A. No. She was on her way in when I saw her first. [89]

Q. Was she anywhere near the "Ka Moi" when you saw her first?

A. She was ahead of the "Ka Moi."

Q. And then after she dropped the anchors she paid out chain and swung down to you?

A. Towards us.

Q. And then let out a boat with a surf-line?

A. Let go a surf boat to take the end of the line in the boat.

Q. Now, how far. Do you know where the piles are in that neighborhood there, right off Waiakea stream? A. Beg your pardon?

Q. Do you know where the fresh water stream is?

A. Yes.

Q. Do you know the piles just on the edge of that?

A. On the edge of the wharf? Yes.

Q. How far from those piles was the schooner when the steamer's line was taken aboard?

A. We had them a little bit on the port quarter. I believe if she would have drifted in over there she would have drifted into the creek there.

Q. About how far from the piles was the stern of your schooner.

(Deposition of Wm. Clover.)

A. Somewheres around 150 or 200 feet.

Q. And how far from the shore on the other side?

A. From them rocks, you mean?

Q. Yes, from the rocks on the side?

A. I reckon the same distances.

Q. About the same distance? A. Yes.

Q. And were you drifting at that time?

A. No, we wasn't drifting after the anchor and the line was to the buoy.

Q. Was there any change in the wind after that; in the strength of the wind, I mean?

A. No, there was no change but it looks to get worse or something like that.

Q. Now, can you tell us about how long a time the steamer was towing until the line parted?

A. I couldn't give you the exact time.

Q. Well, just as nearly as you can; whether it would be nearer [90] five minutes or quarter of an hour?

A. It would be somewhere near a half an hour, I should judge.

Q. Possibly half an hour? A. Yes.

Q. And where were you when the line broke?

A. I was in the fore part, the after part of the foremast.

Q. Did you see the line break right at the moment it broke?

A. I didn't see the line break, but I heard it break.

Q. And do you know where it broke?

A. It broke thirty fathoms or maybe thirty-five

(Deposition of Wm. Clover.)

fathoms away from us.

Q. That would be thirty-five fathoms in addition to the line you had on board?

A. I mean that she would break at least twenty-five fathoms outside the ship.

Q. Did you see the broken end?

A. I seen the end broken.

Q. After you pulled it on board?

A. After we pulled it on board.

Q. What did it look like?

A. It was fagged out; it looks like it simply parted, carried away any other ordinary line carries away.

Q. Just when that line broke, that's the time you dropped your starboard anchor?

A. Dropped the starboard anchor and she seemed to hold for a spell.

Q. What do you mean by that? About how long?

A. I mean that she held for twenty minutes; something similar, like that and then she started easy, very slowly to drift over toward the beach.

Q. But in your judgment you don't think she began to drift again until about half an hour?

A. Well, I don't believe there was a half an hour; twenty minutes, or something like that.

Q. From twenty to thirty minutes? A. Yes.

Q. Then she began easy?

A. She began easy to drag. [91]

Q. And at that time you had holding her simply your starboard anchor?

A. Only the starboard anchor.

Q. How much chain did you have out?

(Deposition of Wm. Clover.)

A. We had—

Q. If you don't know, just say so, but if you think you do, just give us your best judgment.

A. Well, I couldn't tell exactly what chain was out. In her we got one cable of chain, thirty fathoms; there's no fifteen fathom shackle to it; there's a shackle of thirty fathoms.

Q. You think it may have been fifteen fathoms?

A. There is no fifteen fathom shackle. There is one at the end of thirty fathom.

Q. When the steamer had put her line on, you hove up that anchor did you not?

A. As soon as the steamer put her line on we made that line fast and he got that tight and we see that they started then, we hove up the anchor.

Q. Did you heave it clean up, right up to the bow?

A. Hove it right up to the bow.

Q. And having *down* that, how did you fix the anchor there? Did you make it fast after you had it up?

A. We had it running to the windlass ready to let go again.

Q. Did you have the chain so arranged that you could let go of the chain and run it out or did you have it locked?

A. This is an old-fashioned windlass; it is not one of these windlasses like you got, iron windlass. There is a windlass in this vessel and we threw the chain over the windlass with about three turns over the windlass. If you're going to arrange the chain over then you have to hold the anchor and get it up in

(Deposition of Wm. Clover.)

the way so you can drop it. We had it hanging to the hawse-pipe and as soon as the hawser parted we let go; that means it would not take two minutes to go to the bottom by throwing it over the windlass.

Q. You had out more than six or eight fathoms of chain when you threw it over after the line broke?

[92]

A. I should judge there was all of that.

Q. All of that? A. More than that.

Q. How much more, do you think?

A. Towards fifteen fathoms anyhow.

Q. Towards fifteen fathoms? A. Yes.

Q. After that line had parted and you had dropped the anchor, was any effort made to get a line to a buoy so as to hold yourself with more than one anchor?

A. We had no more lines.

Q. Did you endeavor in any way to get a line from any other place?

A. We couldn't get no communications anywheres to get a line there. We couldn't try to get out, there was no boat around to try and take up her line. We couldn't get out there in such weather as that in order to pick up the line.

Q. You mean the weather was too strong for you to go out and pick up your own line? A. Yes.

Q. Then the line you had fastened, you had to let go? A. Yes.

Q. Were there any launches or small boats around that morning when that line dropped? A. No.

Q. Within fifteen minutes afterwards, half an hour afterwards.

(Deposition of Wm. Clover.)

A. I didn't see none. I didn't see none until we got toward the breakers then there was two or three launches come out; the pilot come out.

Q. You say you got possibly two hundred feet from the shore. Do you mean from the breakers or from the shore line, the sand beach?

A. On the sand beach; we were somewheres around that; we were outside of the main breakers.

Q. The main breakers, the second one nearer the shore?

A. Yes; that's the one that breaks right ashore.

Q. Did you notice on the beach there a black object?

A. If we had drifted in we would have struck right into that.

Q. How long had you been drifting that second time until you put up the signal flags?

Mr. RUSSELL.—The second time? [93]

Mr. WARREN.—The second time, after the line had broken and you began dragging your anchor toward the beach, how long was it from the time you began to drag until the signal flag went up?

A. I should judge about two hours and a half; something like that.

Q. Then you were taking about two hours and a half dragging?

A. Dragging, yes, until we put up the schooner.

Q. When you put up the signal flags, that was the time you were approximately two hundred feet from the sand? A. Yes.

Q. And did you notice whether this steamer, "Nii-

(Deposition of Wm. Clover.)

hau" made any move while you were drifting in before she sent her small boat with the line again?

A. No, I didn't notice the "Niihau" making no move but she came right away to us.

Q. When you saw the small boat coming with the line the second time, where was that boat; near the steamer or nearer your vessel.

Q. The boat, I don't think, had left the vessel when our flags went up.

Q. How far was the steamer away from the "Halcyon" when the boat left her?

A. That's hard to tell the length on water. She was a good ship's length away, I guess.

Q. You really didn't notice the steamer very much until that boat left her with the steamer line, is that it?

A. Well, we were forward; the captain called me and tried to get the signals out and then we got the signals out and they hoisted.

Q. And after the steamer had put on one line, you say she ran a second line?

A. After the steamer got one line aboard, the captain called me aft to the wheel; he says to go aft and steer; he says to watch out aft so that I wasn't forward when he put on the second line.

Q. But you saw later that two lines had been made fast? A. Made fast, yes.

Q. When those two lines were made fast, do you know what the steamer did?

A. The steamer was first heaving tight to this line and held us to an anchorage there; she held us [94]

(Deposition of Wm. Clover.)

quite a spell before she started to tow.

Q. And after she started to tow, where did she take you? A. She took us out just near the "Helene."

Q. The "Enterprise," you mean?

A. The "Enterprise," I mean, and we let go anchor there.

Q. Where were you when the anchor was let go that time?

A. When the anchor was let go I was at the wheel.

A. After that what happened to these lines to the steamer?

A. We let go the steamer's line and the steamer had one line aboard us that whole day and night.

Q. And the next morning?

A. And the next morning.

Mr. WARREN.—That's all.

Redirect Examination.

Mr. RUSSELL.—Q. You say that you saw this tow-line when it was taken in aboard the vessel after it broke. Do you know how long that was?

A. The tow-line was?

Q. Just the broken part?

A. The broken part? It should be all of thirty fathoms.

Mr. RUSSELL.—That's all.

Mr. WARREN.—Q. Do you know what became of that piece of that tow-line afterwards?

A. The next day the captain went ashore and I was on deck; we was clearing up the broken ropes and things and the mate was aft in the cabin and the captain of the steamer come alongside and asked for

(Deposition of Wm. Clover.)

this line. I said, "All right, I'll go and see the mate." And when I got the mate, the mate said, "All right give him the line," and so he come on deck.

Q. You gave him the line?

A. We gave him the line. He pulled it in the boat and took it on the steamer.

Tuesday, February 3, 1914.

Deposition of J. A. T. Olson for Libellee.

Direct examination of J. A. T. OLSON, a witness on behalf of Libellee, called and sworn. [95]

Mr. RUSSELL.—Q. Your name is J. A. T. Olson?

A. Yes, sir.

Q. And you are master of the schooner "Halcyon"? A. Yes, sir.

Q. And you were master during the entire month of January last and brought the "Halcyon" into the Hilo harbor? A. The 9th of January, sir.

Q. And you brought your vessel to the railroad wharf?

A. The harbor-master brought her.

Q. What's that?

A. It was brought by the harbor-master.

Q. And on the Hilo side of the railway wharf?

A. Yes.

Q. On the evening of January 12th the vessel broke from its moorings?

A. Yes, about nine o'clock; little before or after.

Q. And you had the vessel tied in what manner?

A. She was tied with the port anchor out and the head-line and stern-line to the wharf and had two

(Deposition of J. A. T. Olson.)

breast-lines, one forward and one aft.

Q. To one buoy or two different buoys?

A. Two different buoys.

Q. What occurred when you broke away from the wharf?

A. When we carried away the head-line and we drifted astern until we touched the little schooner then we breasted her with the offshore breast-line and we dropped the starboard anchor at the same time.

Q. And did that hold the vessel then?

A. Well, she seems to hold a little while, yes; and we were clear of the schooner. About three o'clock in the morning I thought it would be best to run a line so I brought all hands out and I got a six-inch line to the buoy.

Q. When you strung your line out to the buoy, how far were you [96] from the wharf?

A. Oh, I was about a couple of hundred feet, I think.

Q. What's that?

A. About a couple hundred feet; about 150 to 200 away from the wharf, and I was just about abreast of the little schooner.

Q. And about how far?

A. I was about a ship's length.

Q. When you ran your line to this buoy as you said, about three o'clock in the morning, what other lines were out?

A. I had the other lines out to the buoy, but one carried away; the stern line carried away at the same time, just about the same time.

(Deposition of J. A. T. Olson.)

Q. So that when you ran your line out to the buoy you were being held by but one line?

A. And the two anchors down.

Q. This you say, as near as you can recall, was about three o'clock in the morning?

A. Yes, when I ran that line.

Q. Then what occurred?

A. Well, I hove that line taut and she seems to lay there all right and towards morning I thought in case I was showing in or anything like that I'd better get away from there, so about morning, about four or five o'clock, I couldn't exactly tell, I tried to call the attention of the steamer or some boat,—I didn't think necessarily the steamer,—so I used the torchlight, flashed up the torchlight.

Q. This was at what time?

A. This was in the morning very nearly towards daybreak; somewhere around four or five o'clock.

Q. How long after you ran your line to the buoy?

A. It was over an hour.

Q. And during that hour what was the position of the vessel; that is, did she move at all?

A. No, she didn't; she couldn't move in any case, she would have parted my line to the buoy or else drag the buoy and I can't see any difference in the position of the buoy now so she couldn't have dragged anything then; and she was just about abreast right from the little schooner. I didn't have much line out when I was [97] fast to the buoy. I don't think I had a quarter of that big line and I didn't have half of it, I'm sure.

(Deposition of J. A. T. Olson.)

Q. Did you have both your anchors out?

A. Both anchors, yes.

Q. Now, when you flashed your signal did you receive any response?

A. No, I didn't. I spoke a boat, I couldn't tell just exactly the time; I can't remember exactly the time, I spoke a boat what was pulling out, going out from the creek. I don't know whose boat it were. It was a rowingboat. Anyhow I tried to call that boat's attention. I sung out to him to run me a line. I believe that is the word I said. I don't know if he heard me or not.

Q. How far away was this boat?

A. He was quite a distance out, but past me on the starboard side.

Q. You shouted?

A. My intention was for him to come closer so I could tell him what I wanted, but he didn't come close enough.

Q. Did you hear any persons in this boat?

A. They were saying something in Kanaka, I don't know what he was saying.

Q. But you did hear some voices?

A. I did hear some voices, but what he said I couldn't tell.

Q. What occurred afterwards?

A. Afterwards, daylight; somewheres around six o'clock, I believe, somewhere around six o'clock, five or six o'clock, I saw the steamer anchored; was making some preparations. I thought first she was going for that little schooner to tow her away from the

(Deposition of J. A. T. Olson.)

wharf. I seen him after a while drop the anchor and he sent a line.

Q. How long after you flashed your signals was it that you received this line?

A. That was pretty near two hours or hour and a half. I couldn't tell the exact time.

Q. What is your best judgment of the shortest time?

A. Well, I couldn't say exactly the time it was; I don't know exactly [98] the time.

Q. Was it more than half an hour?

A. Oh, yes, there was more than half an hour; I believe there was.

Q. Do you think it was nearer an hour?

A. Just was daylight I flashed the lights so I guess it was over an hour.

Q. Then what was done?

A. Well, he sent a boat down with a line, a six-inch line, and I made that line fast to the foremast because I had my other line fast to the bit and I wouldn't let go that line before he had strain on the tow-line.

Q. What did you do, if anything, with reference to anchors?

Q. Then when we got the line taut I commenced to heave my anchors out. As soon as I commenced to heave the port anchor chain snapped exactly on the windlass. I got the length on board the ship.

Q. What did you do with the starboard anchor?

A. I heaved it in the hawse-pipe. As soon as I got my anchor up he commenced towing me out. There was nobody around the buoy to let go my line. I paid

(Deposition of J. A. T. Olson.)

out my line to the end. There was a boat there. Just as I had the end, I sung out to them, "Hold on to the line so I don't lose it, I got to slip it."

Q. Then what occurred?

A. Just about a little time, I don't think it was more than five minutes after I slipped the line, then the tow carried away.

Q. How long after the line to the buoy was run out was it that these signals were flashed.

Mr. WARREN.—That's not in accordance with the testimony.

Q. When was it with reference to the time that the line was run out to the buoy that you flashed your lights?

A. I flashed the lights, after I had run the line out.

Q. How long after?

A. Oh, that was sometime after. I didn't look at my watch that time; it was somewheres around there, about a half hour or hour; it was about three o'clock we ran the line; between four and five I flashed the lights.

Q. You say it was around three o'clock when you ran your line to the [99] buoy and you flashed your lights between four and five?

A. Yes, something like that.

Q. How long after you had let the entire line out, during the tow, was it that the hawser parted?

A. The hawser parted just about that time; was just a few minutes after I let go the end. I couldn't exactly tell how long, but I remember just about the time the tow-line parted that was just about half-past

(Deposition of J. A. T. Olson.)

six because I looked at the time by my time.

Q. How long had you proceeded in that tow.

Q. I can't exactly tell. I was towed little more than the length of the tow-line because I was little back of the tow and he paid out the whole length of the line. He must have towed about a hundred fathom; little over hundred fathom or six hundred feet.

Q. Do you know whereabouts upon this hawser it parted?

A. Yes, between about half ways, I should judge, between the steamer and the vessel, because we hauled the line up and there was quite a piece of line. I didn't measure, but I should judge about twenty or thirty fathom we hauled on board.

Q. Then what did you do when the tow-line parted?

A. I dropped my starboard anchor right away.

Q. Did you hold? A. No.

Q. And which way did you steer in.

A. She gradually drifted all the time after that.

Q. And did you make any further signals?

A. No, I did not because my idea was—

Q. Just answer whether or not after the tow-line parted and you had dropped your anchor when you saw you drifted, whether later on you put up any signals?

A. When I seen he wouldn't come back again with the line, I hoist up my signals when I was far in.

Q. And how far were you from the breakers when you hoisted your flags?

A. Not very far from the breakers.

(Deposition of J. A. T. Olson.)

Q. What is your best judgment?

A. I threw my lead over just when I raised the signals up; there was eighteen feet of water right astern of the vessel. [100]

Q. Soundings were made?

A. Yes, soundings were made.

Q. What do you think the distance was?

A. I couldn't exactly tell the distance, but we can tell by reference to the chart where there is eighteen feet of water.

Q. Have you any judgment at all as to how far you were? A. It's very hard to tell the distance.

Q. Do you think you could have thrown a stone to the shore. A. No, I couldn't do that.

Q. How far do you think you were from the breakers?

A. I wasn't much more than about a couple of ship's lengths from where it begins to break.

Q. Then what was done after you hoisted your flags?

A. There was nothing done from half-past six to close to nine o'clock. There wasn't a thing done. It was very near nine o'clock when the steamer, when the boat, it was just about nine o'clock when we got the second hawser on board.

Q. What time was it when you hoisted your flags?

A. Just before he sent the boat.

Q. How much before?

A. Well, just as I come up with my signals, I got them hoisted, I looked forward and I seen there was men in the boat and going ahead to send the boat

(Deposition of J. A. T. Olson.)

down. I couldn't tell exactly if they made preparation before I hoist my flag down or not, I couldn't tell.

Q. Did you see them come toward you? Did you see this boat carrying the line coming toward you?

A. Yes.

Q. How long after you hoisted up your flags?

A. Just after I had the flags.

Q. Two hours is after?

A. No, no, no; right away; immediately.

Q. Was it five minutes or ten minutes?

A. Before they got on board?

Q. No. Now, you say that after you hoisted your flag you saw that they were making preparations. I'll ask you, after you hoisted your flag, how long was it before you saw them coming toward you?

A. I saw them right away coming. [101]

Q. What were they doing when you say they were making preparations?

A. They were getting the line, taking the boat; I couldn't see; she was pretty far away from me. I couldn't exactly see what they were doing.

Q. How long did these preparations last?

A. What preparations?

Q. Before they started to come for you?

A. I don't know what kind of preparation; I suppose they had the line right there; they didn't have to make much preparation.

Q. Now, captain, you said when you hoisted the flag you saw they were making preparations to come to you. I want to find out how long a time it took

(Deposition of J. A. T. Olson.)

them before they started to come to you before you hoisted your flags?

A. Didn't take no time at all.

Q. They didn't start until you hoisted your flags?

A. I didn't notice anything.

Q. Did it take five minutes before they started for you?

Mr. WARREN.—I object to that; the witness has answered three times.

The COURT.—I will allow the question.

Mr. RUSSELL.—What was it, Captain?

A. The vessel was too far away from me, I couldn't say exactly what they were doing. I couldn't see that; all I know was that over two hours from which my tow-line carried away before the time another line got on board.

Q. But the question is this, Captain, after you hoisted your flags I want to find out how long a time it took them before they started to come to you with the line? Now, you say that when you hoisted your flags you looked and you saw the boat making preparations? A. Yes.

Q. How long after that was it that the boat was coming toward you?

A. He come right away. As soon as I hoist my flags.

Q. It didn't take five minutes, would you say?

A. I guess it took them five minutes for to get from the vessel to my vessel. [102]

Q. You saw them before they started for you?

(Deposition of J. A. T. Olson.)

A. I saw the boat alongside.

Q. Was the boat alongside when you hoisted your flag?

A. So I believe he was. I believe the boat was there all the time. I don't believe he was hoist up.

Q. After you hoisted your flag where was she?

A. She was right ahead of me.

Q. Coming towards you?

A. Farther out in the harbor.

Q. What was she doing?

A. I don't know what she was doing.

Q. She wasn't coming towards you, was she?

A. I couldn't tell what she was doing. I had enough to look after my own vessel.

Q. Well, Captain, how long a time was it after you hoisted your flag that you saw this boat coming toward you with the line?

A. That's what I say, it wasn't very long; almost right away.

Q. Give us some idea, if you have any idea, in minutes or in hours?

A. It wasn't an hour.

Q. How many minutes was it?

A. I couldn't tell you how many minutes there was.

Q. Was it fifteen minutes?

A. Well, it ain't possible for me to tell the time.

Q. Do you think it was half an hour?

A. No, I don't think it was that long.

Q. Do you think it was fifteen minutes?

A. Somewhere around there; of course, in a case

(Deposition of J. A. T. Olson.)

like that it's pretty hard to tell the time.

The COURT.—I'd like to have you ask him in what way the boat came or did she drift. Was she let go on a line?

A. Yes, the boat was slacked down with a surf-line; they had a line on board on the steamer and she was slacked down; they were backing away with the oars, keeping the head to the sea; that's the way the boat come down.

Q. How many lines were brought to you? [103]

A. First one, the same line that was carried away; the same line that had carried away she brought first, then another line was brought down, a bigger line heavier-sized line, a line that I believe they use for stern-line to make fast to the buoys, a bigger line, a new line that had been used once or twice.

Q. Was that a seven-inch?

A. About seven-inch. I should judge the first line was a six-inch line.

Q. What was done with you then?

A. As soon as they got strain on the first line I heaved up the anchor and the harbor pilot come aboard just before they sent me the line; the vessel was towed out and we dropped the anchor in practically twenty-eight feet of water.

Q. What was done? Whereabouts were you?

A. We were little ahead of the "Enterprise," southward or westward of the "Enterprise."

Q. Captain, how far was this buoy to which you ran the line and to which one of your lines of the

(Deposition of J. A. T. Olson.)

vessel was tied, from the railroad wharf?

A. From the railroad wharf?

Q. Yes.

A. I think those lines, oh, they can't be more than about, I don't think they are more than 300 or 400 feet from the wharf, I should judge from the length of those lines.

Q. Captain, I'm not asking you exactly, I'm asking you just about your best judgment?

A. That's my best judgment; we used a half a coil.

Q. You say between three and four hundred feet?

A. I don't think there's much more than 300 feet from the wharf.

Q. And how far from the end of the wharf was this buoy?

A. There is three buoys, I believe. The outer buoy, I think, is a little farther out than any of the buoys.

Q. Little beyond?

A. Yes. Then there is another buoy little farther back and then another one little back again.

Q. What is the distance between the buoys? [104]

A. The distance between the buoy is about a couple of hundred feet.

A. And about the same distance between each of them? A. That is, about 150 or 200 feet.

Q. And about the same distance between each buoy? A. Yes, about the same distance.

Q. Which one of those three was it that you were tied to? A. To the back one.

(Deposition of J. A. T. Olson.)

Q. That means the one close shore?

A. Yes, the one farther in the harbor; I was tied with the stern-line. I originally had my stern-line to when I laid alongside the wharf.

Q. What was the wind?

A. The wind was about strong northeast.

Q. What were the swells?

A. The swells were about the same direction of the winds; something like that.

Q. Did you say north-northeast?

A. About northeast; probably varying a point either way.

Q. And you say the swells were about the same as the wind?

A. The swells was about the same as the wind.

Q. When this boat came to you with the line; that is, the first time, did the boat have any difficulty in reaching you?

A. No, I didn't see any difficulty.

Q. And how was the sea at that time with reference to the condition of the sea when you sent your boat out with a line to the buoy?

A. Not very bad.

Q. Was it about the same?

A. About the same; probably there wasn't, the weather wasn't that bad; there was a little more sea in the morning than in the night.

Q. That is, the weather wasn't as bad when you got the line the first time as it was when you sent the boat out to tie the line to the buoy?

(Deposition of J. A. T. Olson.)

A. No. The wind was about the same but the sea was increasing a little more.

Q. The sea was increasing? A. Yes. [105]

Q. Now, after you were anchored out about in the harbor, that is, after you were towed the second time, was anything said with reference to keeping a line on your vessel?

A. Yes. After we dropped the anchor out there, we let go both lines first and then the harbor pilot told me, he say. That steamer is going to lay off anchor right ahead of us that day.

Mr. WARREN.—I object to this, your Honor, as being hearsay and conclusion and opinion.

Mr. RUSSELL.—Did you have some talk with the captain?

A. I had a talk with the captain too, and the harbor pilot and me we went over to the steamer, alongside of the steamer and I asked him if they would keep one of the lines on board over the night. All right, he said, I send a line. I'm going to move a little further out and I believe if the wind increased, of course, that line would better be kept over night. It was slack; there was no wind.

Q. How long did you keep that line.

A. He kept it towards daylight and he sung out to let it go and I let go somewhere in the morning.

Mr. RUSSELL.—That's all.

Cross-examination.

Mr. WARREN.—Q. What were the sizes of your two breast-lines going to the wharf, Captain, that

(Deposition of J. A. T. Olson.)

night, before you broke away the first time?

A. Going to the wharf, five-inch line.

Q. Both of them?

A. The head-line, you mean, or the breast-line.

Q. The breast-line.

A. The one that carried away?

Q. Both breast-lines?

A. We didn't keep no breast-line; we had the breast-lines slack off and we just kept the head-line.

Q. Did you have any breast-line connecting the schooner with the wharf?

A. We used breast-lines when we discharged, but we slacked them up over night. [106]

Q. But they were connected.

A. I don't think we had a breast-line.

Q. Before you broke away at all, what lines did you have to the wharf?

A. A head-line and shore-line.

Q. And no breast-line?

A. I don't recollect that we have any breast-line; of course, I told the mate to slack them up.

Q. If you slacked them up that doesn't mean, cast them off, would it?

A. I don't remember if they were cast off or we kept them on board.

Q. What size were those lines, before you slacked them up?

A. Those lines were five inches, I think; I think forward we had a four-inch.

Q. What size was your head-line?

(Deposition of J. A. T. Olson.)

A. That belonged to the railroad. I don't know, but I think it's a nine-inch line.

Q. And your stern-line?

A. We had one of the same kind for the stern-line.

Q. How many buoys? A. I don't know.

Q. What size was your breast-line to the buoys?

A. Five-inch line.

Q. And how long were they to the buoys?

A. How long to the buoy.

Q. What distance from the schooner to the buoy?

A. The same distance that the schooner was from the buoy.

Q. That night which line broke first; that evening?

A. The head-line broke first.

Q. That was that nine-inch line belonging to the wharf? A. The nine-inch line broke first.

Q. And did your stern-line part at all?

A. No, the stern didn't, and I slipped my stern-line, let her go to get clear of that little schooner.

Q. And that left you with a breast-line to the buoy?

A. Yes.

Q. And what other line did you have with you after you got clear [107] of the schooner?

A. Then I had my anchor out forward and I had that breast-line tied up and it kept the vessel out of the schooner, and anchors out forward; and then I ran another line out to the buoy forward, because that forward breast-line I didn't know would she carry away or what she done.

Q. Anyway it separated from the ship?

(Deposition of J. A. T. Olson.)

A. Yes.

Q. The forward breast-line to the buoy parted in some weather, didn't it?

A. Yes, it parted in some weather; that's why I ran that line; I got a brand new six-inch line run to the buoy.

Q. And you made that fast forward on the schooner? A. Forward on the schooner.

Q. That new line ran over the bow to the same buoy to which your stern-line had been before?

A. Exactly.

Q. Can you guess at all the time of the morning that you burnt the flare lights?

A. I couldn't tell you exactly. I never looked at the time, but it was before daylight.

Q. Would it be nearer three o'clock or four o'clock?

A. I think it would be near four o'clock. It was after we had that line run.

Q. After you sent the line to the buoy?

A. After I sent the line to the buoy.

Q. After you sent that line to the buoy you had that line and your two anchors? A. Yes.

Q. And you say the schooner didn't drift them.

A. She was aholding.

Q. Why did you burn your flare lights?

A. I didn't like to lie there. It was not any more danger, but my idea was to get a tow; I wanted a tow to tow me farther out in the harbor.

Q. At that time when you burnt that flare light,

(Deposition of J. A. T. Olson.)

how near were you to those piles at Waiakea creek?

A. I couldn't tell you how far.

Q. I'll ask you to give me your judgment as to how near she [108] was to these piles?

A. I couldn't tell.

Q. You've given some other distances, according to your best judgment, I'd like to have you do it in this case?

A. My best judgment was somewhere about, six hundred feet.

Q. Your schooner was six hundred feet from the piles? A. I think so.

Q. How far was she from the wharf at that same time?

A. Well, she was pretty near the same distance from the wharf.

Q. And how far from the shore on your port side?

A. On the port side, oh, she was a long distance from shore.

Q. What way was your bow headed?

A. The vessel was headed about northeast; the direction northeast.

Q. That would be approximately toward the end of the wharf then?

A. Yes, something like that because the wind was blowing from the northward a little over the wharf toward the creek; towards the Bay of Hilo; towards the postoffice; the wind was blowing about from the northeast.

Q. Then you would say that you had not drifted

(Deposition of J. A. T. Olson.)

at all after you had gotten clear of the smaller schooner and dropped your two anchors and run a line, that you didn't drift after you got that line?

A. Not after I got that line tied. I drifted all the time until I got that line tied.

Q. When you were lying at the wharf you had your port anchor? A. I dropped—

Q. I'm speaking of the port anchor; that's what you had down when you were lying at the wharf?

A. Yes.

Q. How many fathoms of chain did you have out?

A. There was about thirty-five.

Q. In which direction was the chain running then?

A. Just out the bow.

Q. When you let down your starboard anchor, how much chain did you let out?

A. I couldn't exactly tell; somewhere around, I didn't let much chain out, because I wouldn't go back too far. I had less than fifteen. [109]

Q. Less than fifteen?

A. Somewhere around fifteen.

Q. Aside from breaking away from the wharf and going up to the schooner—Did you drag your port anchor?

A. I guess I dragged it a little until I got the line out.

Q. Until you got the line on, you think you dragged that anchor? A. Yes.

Q. How far had you drifted in distance before you got that line to the buoy?

(Deposition of J. A. T. Olson.)

A. I should judge about little over a ship's length.

Q. And how long did you lie fast with your two anchors and your line without drifting?

A. I may have laid over two hours; over two hours I think; somewhere around there.

Q. And during that time. At what time during that two hours did you make your flare light?

A. Somewhere around between four and five, I don't know exactly; I didn't look at the time.

Q. And when was it that you saw the boat passing and hailed the boat?

A. Just about the break of day. I wouldn't tell exactly the time. I couldn't tell it; impossible. I think there was daylight enough to see a little.

Q. Daylight enough to see? A. I think so.

Q. Any light being carried on the boat?

A. No, I didn't see any light.

Q. How far away were you from the boat?

A. I wasn't very far; not very far away.

Q. Well, a hundred feet, two hundred feet?

A. Somewhere around there.

Q. Will you give us your best judgment of that?

A. No, I don't know exactly how far it was from the ship. I don't know; near enough anyhow to see him.

Q. Now, Captain, if as a matter of fact it should be shown by the records in the engine-room of the steamer "Niihau" that she [110] started up her engines toward four o'clock in the morning, would that make any difference.

(Deposition of J. A. T. Olson.)

Mr. RUSSELL.—That's objected to as incompetent.

Mr. WARREN.—In your judgment as to what time you saw that boat?

A. It's impossible for me to tell when the steamer started up because I couldn't say; and what time the boat passed, I don't recall; I don't know exactly to an hour but somewheres towards morning, the boat passed.

Q. But you said it was daylight and sufficiently light to see the boat?

A. There must have been a light. I couldn't tell exactly the time the boat passed.

Q. Would it help you any if you knew the time of the starting of the engines; if you knew exactly that time; would that help you to fix the other time?

A. I don't think so; I don't think it would make no difference; of course, I got the ship's log-book, my time; not exactly down, but approximately.

Q. How long after you hailed that boat was it until you actually got the line from the steamer; can you remember that? A. No, I can't remember that.

Q. Would it be nearer five minutes or an hour?

A. I think it was longer than that.

Q. Longer than an hour? A. I think so.

Q. After you hailed that boat?

A. I think it was. I don't know exactly how long that was.

Q. Was it daylight when you got the line from the steamer?

(Deposition of J. A. T. Olson.)

A. A little before daylight; just about the break of day; I think it was somewhere, I don't know exactly, somewhere around half-past five or six o'clock I got the line.

Q. Did you at any time look at your watch to see what times these things happened?

A. Yes. When the line carried away I looked at my watch. I look at my watch when the line carried away and when I got the line on board when we had the tow the second time. [111]

Q. And as far as your statements of time are concerned for other times, that's simply your recollection without the watch and you might be wrong and you might be— A. Right.

Q. Right. A. Yes.

Q. What did you say you took soundings when you were lying at anchor with a line to the buoy? You took soundings? A. Yes, I took soundings.

Q. What did those soundings show?

A. They showed somewhere around sixteen or seventeen feet of water.

Q. Who took those soundings?

A. I took the soundings myself.

Q. Don't you remember what they were?

A. Sixteen or seventeen feet of water.

Q. And forward how much?

A. I didn't take soundings forward; I took soundings aft.

Q. What, in your judgment, was the full distance that you were towed that first time?

(Deposition of J. A. T. Olson.)

A. About seven or eight hundred feet probably.

Q. And did you yourself see the tow-line part?

A. Yes, sir, I was right there right when she parted.

Q. Have you any idea what made it part?

Q. No, just a strain, heavy strain on it because she was tight as a ——— when she parted.

Q. Did you see any mark of the rope on the mast; any marks there showing the strain?

A. Yes, I guess so.

Q. That was a new mast, was it?

A. Brand new mast.

Q. Did you see anything of the buoys forward of you at the time the line broke?

A. I don't think there was any buoy forward because we was far over towards Hilo side, I think.

Q. When the line broke, how far were you from the wharf?

A. Oh, a good distance out from the wharf; we were away to the northward of the buoys so we must have been a long ways out the [112] wharf; not out, but over that way.

Q. Over to the Hilo side of the wharf?

A. Yes.

Q. And when that line broke you immediately dropped anchor?

A. Immediately dropped anchor.

Q. How much chain did you let out?

A. I let out twenty-five fathom of chain.

Q. On your starboard anchor?

(Deposition of J. A. T. Olson.)

A. On my starboard anchor.

Q. And what is the weight of that?

A. Between 1800 and two thousand pound anchor.

Q. And your port anchor weighed what?

A. The port anchor was a little smaller.

Q. Just what time did that port anchor and chain part? What had you done?

A. I was heaving up the anchor when that port parted; just after we got the tow-line on board about in the morning.

Q. So that you had both of your anchors up to the time that the tow-line had been passed on?

A. Yes, I had both anchors up to the time the tow-line was brought on and we were fast.

Q. If anyone else has testified that this anchor, port anchor parted right after that boat returned from running a line to the buoy, would that be, in your judgment, incorrect?

A. That is not correct; they didn't know what they were talking about.

Q. You had just begun heaving the port anchor when it parted? A. Just begun heaving.

Q. In heaving up your starboard anchor, how far did you bring it?

A. I had it hanging in the hawse-pipe; I didn't have no time to bring it in.

Q. You have an old-fashioned windlass?

A. We can let it go quicker in that way by just starting the chain and letting it run out. [113]

(Deposition of J. A. T. Olson.)

[Title of Court and Cause.]

Tuesday, February 3d, 1914.

Cross-examination of J. A. T. OLSEN, resumed.

Mr. WARREN.—Q. I still feel uncertain, Captain, as to some of these things that you have mentioned. At first I understood you to say that you hailed this passing boat along about daylight?

[114] A. I don't know.

Q. You don't know?

A. I don't know the time. I don't know the time when I hailed the boat, sometime—sometime towards morning somewhere. I don't know what time it is.

Q. That would be anywhere from three o'clock to six, would it not, towards morning?

A. Yes, anywhere, any time.

Q. So that when you said before that you had hailed this boat about daylight, you were not sure that that was correct?

A. I ain't sure, because what I say—why I said so is because I could see the boat.

Q. Yes.

A. I could see the boat, that is why I say it is daylight. I don't know exactly what time I hailed the boat.

Q. If it was in the neighborhood of four o'clock in the morning then the boat must have been fairly close in order to have seen it?

A. Yes, passed about a ship's length from the ship.

Q. Now, Captain, you also said that it was along

(Deposition of J. A. T. Olson.)

about five or six in the morning, that you saw the steamer coming; how do you fix that time as five or six in the morning?

A. Well, how—I don't know exactly the time when he commenced coming.

Q. Then why did you say five or six?

A. Well, somewhere around there, I think. That is what I believe I believe, but I ain't certain of the time.

Q. Well, was it yet daylight when you saw the steamer coming?

A. Just about the break of day, I think.

Q. And yet if it was just about the break of day that the steamer was coming, yet you say it was an hour and a half before that somewhere around there that the —an hour that the boat had passed you?

A. I don't know exactly the time. [115]

Q. On that morning where was the steamer when you first saw her?

A. Well, when I *first the* steamer she was moving in. I think she was heading in towards the wharf, I think; she was going in for that little schooner.

Q. She was going bow first?

A. Bow first, going in.

Q. Towards the "Ka Moi"? A. Yes.

Q. How near did she approach to the "Ka Moi"?

A. Oh, not very near. I believe she dropped anchor then right about ahead of me somewhere.

Q. About ahead of you? A. Yes.

Q. And about how far away?

(Deposition of J. A. T. Olson.)

A. Oh, about half a cable length, about three or four hundred feet.

Q. And how far from the buoys, any of the buoys, was the steamer when she dropped anchor?

A. I didn't notice, I didn't take any notice of the buoys.

Q. Did you see the steamer drop her anchor?

A. No, I didn't notice it, but I believe she did. I didn't notice her drop the anchor, but I believe she did though. I believe she dropped the anchor.

Q. What move did the steamer next make when you saw her coming bow in?

A. I believe she dropped the anchor and swung. She swung anyhow head up to the wind, and she was sending a boat with a line to me.

Q. And she did the swinging in behind the wharf, did she?

A. Well, I will tell you the truth, Mr. Warren, that I never noticed, I didn't notice the movement of the steamer. It is no use to ask me a question about it, I didn't watch the movement. All I watched was when she was sending me the boat, sending me the line, that is all I was looking after.
[116]

Q. That line came to you after she had gotten her stern around to you? A. Yes, sir.

Q. Did you notice how she got her stern around, which way she swung, port or starboard?

A. I didn't notice that.

Q. Are you prepared to say, Captain, that that steamer did not come in stern first towards you?

(Deposition of J. A. T. Olson.)

A. I don't know.

Q. She may have come in stern first and not bow first?

A. She might come. I suppose if she dropped the anchor she was letting go and getting down to me a little closer.

Q. I only want to get at what you saw. Now, it seems to me that you are telling us some things that you did not see at the time but only what you believed.

The COURT.—If you will tell those things that you know we will get along faster.

A. Then there is no use of me telling you anything. I don't know what he done on board of the steamer. There is no use of my saying anything then.

The COURT.—If you don't know, say so, then we may progress and go on to something else.

Mr. WARREN.—Q. So that now you are not sure whether the steamer came bow first or stern first?

A. No, I ain't sure of that.

Q. And when you first noticed her was there any small boat out by her, alongside or near her?

A. I didn't notice it.

Q. You didn't notice that? Did you see the small boat start from the steamer and come to you?

A. I seen, I noticed while they were away from the steamer a little while.

Mr. RUSSELL.—Is this the first time?

Mr. WARREN.—The first time.

(Deposition of J. A. T. Olson.)

Q. You say you did see some small boat leave the steamer?

A. No, I did not. I did not say I saw it leave the steamer. [117] I saw it when it was away from the steamer awhile.

Q. Away from the steamer awhile? A. Yes.

Q. About how much of a distance from you did this boat pass?

A. I could not tell you that, I do not remember exactly. I know I noticed the boat, but I was forward when the boat come close, when I got the line from the boat. I didn't notice when he left the steamer.

Q. So that your best memory now is that the first time you saw that boat with the line that morning it was right near to you with the line?

A. Yes, to my best recollection. I don't remember if I noticed it before or not.

Q. And you don't know how long she had been coming towards you or when it left the steamer? A. No, I don't know.

Q. And how great was the distance between the steamer and the schooner when this line was passed?

A. Oh, not so very great. I guess the line was—he didn't give us all the line I don't think. I don't think he give us all the line.

Q. Well, how much of that line was used in making it fast on board your schooner?

A. Not much, it extends from the foremost to the chocks, the distance is not very far, about sixteen feet, I should think, something like that.

(Deposition of J. A. T. Olson.)

Q. Sixteen feet of line?

A. Oh, more than that, a little more than that was used.

Q. That is the distance from the mast to the chock? A. Yes.

Q. And that is so far as you know, that is all of the line?

A. Well, just enough to make fast, there was a couple of round turns around the mast, two, I think, and I think two or three around the mast, and two half hitches, that is all.

Q. You don't know how much of that line was on the other end on [118] board the steamer herself? A. No, I don't.

Q. And how did that boat approach you, by what means? A. He was pulling with the oars.

Q. Pulling with the oars?

A. To my best recollection he was pulling with the oars. I don't think he had the surf-line at that time or had any line on the boat at that time, just pulling with the oars.

Q. Coming bow on, pulling with the oars?

A. I think he was pulling. I don't remember exactly whether they were backing or pulling. The first time I think they were pulling bow on.

Q. And to your recollection you don't think they had a surf-line at that time?

A. No, I don't think so. I don't recollect the surf-line at that time, the first time.

Q. Now, Captain, did you notice whether that

(Deposition of J. A. T. Olson.)

boat went back to the steamer after she passed you the line?

A. No, I didn't notice. I recollect the surf-line we took the other time, but I don't remember the surf-line the first time. I don't remember whether she had it or not.

Q. They might have had it?

A. They might and they might not.

Q. And they may have come down stern first fastened to the surf-line?

A. They might have had a surf-line the first time, I don't remember that now, but I remember noticing the surf-line the last time.

Q. I am speaking of the first time. The first time they passed you a small line then they went back, did they, and you hauled the surf-line aboard, is that the way, or did they hand you the surf-line?

A. They did not.

Q. Did they hand you the tow-line?

A. I have forgotten whether we threw them a line or whether they [119] threw us a line, I have forgotten that now.

Q. But what you brought on board the boat was the hawser that they used to tow you with?

A. Yes, sir.

Q. That was how big, that line?

A. I think about a six-inch line, I didn't measure it.

Q. After you got that line fast did you notice what became of it?

(Deposition of J. A. T. Olson.)

A. She either hove it taut or went ahead, I don't know which. The line got taut anyhow. He tightened up that tow-line anyhow.

Q. And in what direction did the steamer pull you? A. Right out, I don't know.

Q. Parallel with the wharf?

A. A little out from the wharf.

Q. A little out from the wharf?

A. Yes, a little out.

Q. And not up towards the end of the wharf, you passed it?

A. No, a little out, I think so. Of course I never noticed much of the direction but I should think it was little out by the wharf.

Q. Now, while you were being towed, did you notice the position of any of the buoys around there?

A. No, I did not notice.

Q. The time the line broke did you take any note of where the buoys were?

A. No, I didn't notice the buoys.

Q. Exactly where were you standing on the bow when that line broke?

A. I was standing just alongside the line.

Q. Alongside of it?

A. Alongside of it on the bow.

Q. And you saw the line part?

A. I saw it part or I heard it. I heard just like a shot you know. You know like when a line broke, actually snapped.

Q. Did you actually have your eyes on it and see it part?

(Deposition of J. A. T. Olson.)

A. Not at the part exactly where it broke, I don't think, but I heard a snap and it broke and I looked and there is the line gone.

Q. So you don't know whether the line was in or out of the water at [120] the point where it broke?

A. I am sure it was out of the water a second before she broke because I noticed it before just at the snap. I didn't at the time, I was looking aft and I heard the snap and I turned around and it was gone.

Q. When that line snapped were there any signals passed between the schooner and the steamer of any kind, motions?

A. No, I did not—there was no motions done just right there.

Q. Any signals displayed of any sort? A. No.

Q. What you did was to drop your anchor?

A. Drop my anchor, and I was looking out after that to get that anchor down.

Q. Now, I thought you said you began drifting right at that time, gradually?

A. I could not tell exactly if she drifted right away. Of course I was paying out as much chain as I possibly could.

Q. How much did you pay out?

A. Twenty-five fathoms and then after that I could not pay out much more because she would get too close in if I paid out more chain, close in towards the shore.

Q. Now, in drifting that time, in what direction did you drift? A. With the wind and sea.

(Deposition of J. A. T. Olson.)

Q. I know, but as compared with the direction of the previous drift?

A. Well, she drifted about—with the wind and sea in the same direction, but she was further out, away from the wharf, the vessel was further out in the harbor towards the north I should think, the compass direction there north.

Q. Where you were lying the first time before the line was passed to you, if you had continued to drift, your anchors and line to the bow not holding, where would you have brought up, as far as you could see; where with respect to the mouth of the Waiakea river?

A. I would have brought up on the beach at Hilo, I don't know exactly where. [121]

Q. I mean in towards the mouth of the creek or piles?

A. I think I would have gone past the piles if the anchor had carried away the first time. I think I would have gone past the piles because there seems to be a kind of current setting out from the river there.

Q. And the second time when you dropped the anchor at the time the line broke, you felt that you could only let out twenty-five fathoms?

A. That is all I could pay out, and that is all there would be any good to pay out in that much water, in eighteen or twenty feet of water, whatever it is. If twenty-five fathoms of chain would not hold her there, that little boat, she would not hold anyhow.

Q. Now, in your position where the line broke,

(Deposition of J. A. T. Olson.)

was that nearer the Hilo beach than your position before you first towed?

A. No, well—no, it was further away from the Hilo beach.

Q. And yet the previous time you let out a good deal more chain didn't you?

A. I had more chain out all right, I had my—I had my—I had my port anchor—the port anchor was placed away out, outside the end of the wharf. The port captain placed that anchor anyhow.

Q. At the time that line broke did you notice any small boats around, at the time the line broke?

A. I seen lots of small launches around the boat.

Q. Did you hail any of those launches?

A. No, I did not hail any of them.

Q. Did you have any conversation with anybody on any launch soon after that line broke?

A. No, not to my recollection. I think that the pilot man was around, or pilot boy was around there once, I think I seen them. I don't know whether I got to see him—I mean speak to him, I might and I might not.

Q. When that line parted did you make any effort to get a line [122] from any other place?

A. I had no lines on board the ship.

Q. Did you try to have a line brought from some other place?

A. No, I did not. I thought the steamer would send me a line back again, that was what I was waiting for.

Q. You were waiting there for the steamer to send

(Deposition of J. A. T. Olson.)

another line? A. A line.

Q. And you waited two hours and a half before you made your signal? A. I did.

Q. Drifting on the beach all the time?

A. I don't think it was quite two hours and half. It was over two hours anyhow.

Q. Is it not a fact that you lay at anchor there without drifting materially for a good long time, an hour and a half or two hours?

A. No, she was continually sagging, sagging, sagging all the time towards the beach, the whole time sagging a little.

Q. Did you consider that you were in danger of getting ashore?

A. Yes, I was in danger then, danger all the time after that tow-line broke.

Q. Serious danger?

A. Pretty serious danger.

Q. And you waited until you were close to beach before you put up any signal flags? A. I did.

Q. Now, from the time the line broke until you put up the signal flags, did you observe the steamer at all?

A. Yes, I seen him laying there.

Q. What did she do?

A. I don't know what she done.

Q. Well, did she move, as near as you could see?

A. I don't know whether she moved or not.

Q. Can't you tell, Captain? You were there on board your schooner. You should be able to tell,

(Deposition of J. A. T. Olson.)

considering that you were in serious danger and anxiously waiting for another line from that steamer and yet you say you cannot tell what that steamer did? [123]

A. No, I cannot tell what it did.

Q. You cannot answer? A. No.

Q. Very well, you know she might have made a big circle in that bay there, and you not notice it?

A. No, I don't think she made any circle in the bay.

Q. When she sent her second line, the second time after you had put—which you had got after you put your flags up, was she in the same position as she had been when the line broke and she dropped anchor?

A. To my appearance, she was. After a little I believe she slacked a little and come a little closer to me.

Q. You think that the most she could have done was to slack away on her anchor chains so as to come a little closer?

A. That is the way it was done—it looks like it anyhow to me.

Q. When the line broke do you know whether the steamer dropped anchor or not?

A. I don't know whether she dropped anchor or not.

Q. But you do know that she had her anchors down at the time the second line was sent to you?

A. Yes, she had the anchor down to all appearances, it looks like it. I could not tell whether the

(Deposition of J. A. T. Olson.)

anchor was at the bottom or not, that is impossible, but to all appearances it looked like it.

Q. And for all you know that steamer may have anchored and later picked up her anchors and made a circle around you in the bay and come three quarters of the distance towards you, dropped anchor again and swung around stern to, paid out chain and you not noticed all of that; can't you answer that at all, Captain?

A. No, I cannot answer because I do not want to say anything without I know that.

Q. Do you mean to, give us your judgment that that steamer let you drift for in the neighborhood of two hours towards the beach without [124] doing anything so far as you could see?

A. He might have done something. I don't know what he done, but my idea is that he could have got a line sooner aboard.

Q. That is only your idea?

A. That is my idea about it, yes.

Q. When you put your signal flags, how long was it after that that you actually got the line?

A. That was not long.

Q. That was only about four minutes by the watch, was it not, Captain?

A. I did not look at the watch, but that was not long.

Q. Have you not said before this that it was five minutes,—not in giving your testimony, but up in Hilo, didn't you say that it was five minutes, not more

(Deposition of J. A. T. Olson.)

than five minutes that you got the line after the flags were up?

A. I don't know anything what I said before.

Q. Can you say now whether it was?

A. I cannot give any exact minutes of time, it is impossible. I cannot do it. It did not take long.

Q. Well, would you say it would be more than five minutes?

A. I cannot say anything of that kind. I would not say to minutes, no exact time.

Q. Where did you first notice that boat the second time when she came in with a line?

A. Well, I noticed them as soon as I looked around after I had my signals up. I went down in the cabin to get the flags and as soon as I had the signals up and I had time to look around then I saw the boat coming.

Q. Were there any other vessels lying in Hilo Bay besides steamer "Niihau" and the sailing vessels?

A. Well, there was a little schooner there.

Q. Besides the schooner. There was the "Enterprise," was there [125] not?

A. Yes, the "Enterprise." The "Enterprise" was there and that little sailing schooner, there was no other sailing vessel there.

Q. The only steam vessels in the bay were the "Niihau" and the "Enterprise"? A. Yes, sir.

Q. Then there were some small launches?

A. Yes, there were some small launches.

Q. And in making—putting up your signals, was

(Deposition of J. A. T. Olson.)

that intended for the steamer "Niihau"?

A. Well, yes, that was intended—yes, that was intended for the steamer "Niihau." Of course she was more likely to give me assistance.

Q. When was it that you told the small boat to hold on to your line that you had let go as you were paying out during the first tow, you had a line to the buoy? A. Yes.

Q. And you paid that out until you came to the end of it and let go of it? A. Yes.

Q. Was that the time that you told the small boat to take care of it so that you would not lose it?

A. Yes.

Q. Do you know what that boat was?

A. I think it was the boat that used to land the pilot, I believe it was him.

Q. One of the launches, was it not?

A. Yes, one of the launches, yes.

Q. And just what conversation did you have with the boat about that line?

A. I told him to get that for me. I believe he went over there anyhow to let it go and I sung out to him, "Don't let it go, because I have got to slip it yet, don't lose it." And he came back again, I believe, and told me that the line was fouled, he could not let it go.

Q. Was that before or after this tow-line broke, from the steamer?

A. That was the second time. I believe that was after the tow-line broke, the second time, I was talk-

(Deposition of J. A. T. Olson.)

ing to him. I believe that somewhere around there anyhow, I don't remember exactly about this.

Q. Right about the time the line broke was that same launch around [126] you?

A. That time—it was somewhere in Hilo Bay, I don't know whether it was close to me or not.

Q. Did you have any conversation with that launch man other than asking him to get that line on the buoy?

A. Not to my recollection, I don't recollect it.

Q. Captain, is it not a fact that that launch came alongside your vessel right after the tow-line broke and asked you if you didn't want to run another line to a buoy?

A. No, I don't remember it. He was around there shouting something, but I don't know what he said.

Q. Well, do you know what you said in reply?

A. I don't remember what I said. I don't remember what I said. I didn't have no line anyhow to run, I didn't have it.

Q. Did you tell the boy that you had no line?

A. I don't remember. I don't remember if I told him anything.

Q. Did you tell that boy that you didn't need another line?

A. No, I don't think I said—I don't think I said so. I don't think so.

Q. Did the boy make you any offer of any sort about lines?

A. No. No, I don't remember if he made any. I

(Deposition of J. A. T. Olson.)

don't remember his making any offer to me about anything. I don't remember it.

Q. Will you go so far as to say that no boat did make you an offer about lines?

A. I cannot remember it, anybody making me an offer. I cannot remember it. If I—I think if a boat should have made an offer of a line I would have taken it at that time.

Q. That is your judgment now?

A. That would always be my judgment that time though of course I don't remember. I would certainly if he made me an offer of a line from the steamer to tow me further out I certainly would take it.

Q. But if he made you an offer to run a line to you from a buoy, what about that?

A. Well that would be all right. [127]

Q. That would be all right?

A. Yes, I would take it. I don't remember now.

Q. Well, you say now that such an offer was not made to you, Captain?

A. No, I don't remember.

Q. You would not say that it was not?

A. I don't remember anything of that kind.

Q. And you asked that boat however to get the line for you from the buoy?

A. Yes, and they could not do it.

Q. And they replied that it was fast around the buoy chain? A. Yes.

Q. And they could not get it loose?

(Deposition of J. A. T. Olson.)

A. When I think over the thing now I think the boat asked me if he could do anything for me—if he could do anything for me. I think he asked that and I think I said, "No, I don't think you can do anything for me," I think that is what I said. I did not see what he could do for me at the time because I didn't have any line to give him.

Q. Well, do you remember that you told the boat that you didn't have any line?

A. Yes, I remember telling him that, or I don't remember telling him that I didn't have any line, but I think I told him that I didn't think he could do anything for me because I didn't have any line, I think I said that.

Q. Did you ask that boat to take any message to the steamer? A. No, I did not.

Q. That was after the line broke, was it not?

A. No, I did not tell him to take a message to the steamer.

Q. Why not?

Mr. RUSSELL.—Why, not, Captain?

A. Well, I didn't see any use, because I thought the steamer would see what plight I was in, and I didn't know he had any communication [128] with the steamer anyhow.

Mr. WARREN.—You didn't think the launch could get out to the steamer under her own power, perhaps? A. Oh, yes, I guess he could.

Q. Now, do you remember hearing anything said by any of the other men in that boat besides the man in charge?

(Deposition of J. A. T. Olson.)

A. No, I don't remember anything said.

Q. Do you remember anyone in that boat calling up to you that you were drifting and that you would go ashore? A. I don't remember it.

Q. You don't remember that? A. No.

Q. Will you say now that you did not say in answer to anything said from the boat that you were not drifting?

A. I don't remember anything about it.

Q. Well, Captain this was the particular time for you, or can't you remember a little in a general way about that?

The COURT.—That is pretty hard for him to answer.

Mr. WARREN.—It is for the captain to say and if he wants to say so it goes right down in the record.

A. I don't remember anything what happened, no conversation and things like that.

Q. I am not asking you to give me the words, Captain, just the substance of what was said, anything to that effect?

A. No, I don't remember any conversation. There was all kinds of words and things what they said, but I don't remember the general run of it.

Q. All kinds of what?

A. All kinds of things said, probably men were shouting here and there but I don't know what they were talking about.

Q. I understood you to say on direct examination, in answer [129] to Mr. Russell, that five minutes

(Deposition of J. A. T. Olson.)

after you slipped your starboard anchor the tow-line broke, is that right?

A. Slipped? I didn't slip any anchor. I didn't say any such thing.

Q. When the tow-line was made fast the first time you began heaving in your starboard anchor?

A. I was heaving on the two anchors.

Q. And the port anchor broke? A. Yes.

Q. And then you were heaving on your starboard?

A. Yes, sir.

Q. How long after you got that anchor up to your hawse-pipe until the line broke?

A. Not very long.

Q. Is that what you mean by five minutes?

A. It was longer than five minutes. He towed about a distance before—she towed a distance before the tow-line broke, towed quite a distance.

Q. Then give us your best judgment how long in time that first tow took?

A. Well, I could not tell you exactly how long the tow took; I was too busy.

Q. Not exactly, as near as you can remember, you have assumed it is quite a distance for Mr. Russell?

A. I may be a way wrong in the time, I may be a way wrong.

Q. Captain, you may be a way wrong in all the estimates of times and distances that you have given to-day?

A. No, some of it I know the time. Well, I know

(Deposition of J. A. T. Olson.)

the time right when I took the line aboard because I happened to look at my watch that time.

Q. Then you also looked at the watch when you got the tow-line the second time?

A. I guess about fifteen or twenty minutes or so or probably longer, probably half an hour.

Q. And you think that line parted about half-past six in the morning? [130]

A. About half-past six.

Q. That was the time that you looked at your watch?

A. Yes. I don't know if my watch was right. I know somewhere around there.

Q. Now, can you tell us your best judgment of how far the "Haleyon" was from the sand beach at the time you got the tow-line the second time?

A. Oh, probably three or four hundred feet, probably a little more.

Q. That is just a rough guess?

A. That is just a rough guess.

Q. Would you think it would be as little as two hundred feet?

A. No, I don't think it would be less than that. Somewhere around there.

The COURT.—The most definite question there would be how far from the breakers perhaps.

A. There was four hundred feet all right from the sand beach. I believe that was. There were launches passing astern of me, and they would be breaking about two hundred feet, I should think, in

(Deposition of J. A. T. Olson.)

a matter like that, the breakers would go out that far, over a hundred feet, I guess.

Mr. WARREN.—Then you would think that you were about two hundred feet from the breakers?

A. Yes, about a ship's length from the deck, that is where they broke.

Q. Your deck is how long?

A. About one hundred and thirty feet somewhere around there.

Q. Now, if several other witnesses have given their judgment of that distance as from the schooner to the sand beach as about two hundred feet more or less, would that have any effect on your judgment?

A. No, because the thing is hard to tell. [131]

Q. It might be as little as that?

A. Hard to tell. It might be, but I don't think so.

Q. Did you notice on the beach a black object there?

A. No, I did not notice, never looked at it.

Q. Did you hear at any time of another vessel having been ashore right near there?

A. Yes, I told you about it. I never paid no attention to it, I don't know anything about it.

Q. You did not see a big black boiler on the sand beach there?

A. No, I did not see, I did not notice. I have heard people telling.

Q. Now, you say in weather like that the breakers would be breaking maybe a ship's length behind you?

A. Yes.

Q. Pretty heavy weather wasn't it, Captain?

(Deposition of J. A. T. Olson.)

A. Oh, yes, I have seen it worse.

Q. You have seen it worse? A. Yes.

Q. And don't you really think it was really bad weather?

A. I blew about forty miles an hour, I guess; I have seen it blow more than that several times in my life.

Q. This was blowing perhaps forty miles an hour?

A. Yes.

Q. And how was the sea?

A. Well, there is always more or less sea in Hilo Bay in that kind of wind.

Q. I am asking you how it was there?

A. Some sea.

Q. There was really too much sea to be safe for a small boat—to be out in a boat, wasn't there?

A. No. I didn't see any danger for a big whale-boat, something like that, the weather was not that bad that it would be dangerous for a big heavy whale-boat like that.

Q. By a whale-boat you mean a steamer's boat?

A. Yes, a steamer's boat.

Q. What is the size of your own boat on the schooner? [132]

A. That is only fourteen or sixteen-foot boat.

Q. You consider it would be dangerous in such a boat?

A. Not when there is one man on board to handle it.

Q. You have men on board to handle it, have you not?

(Deposition of J. A. T. Olson.)

A. Yes, sir. I have pretty fair men, they didn't have no trouble to get that line out.

Q. I am not talking about that, Captain. After you had been towed out the second time and the line had been made fast and you were held there all that day, did you leave your schooner at all to go ashore?

A. That night?

Q. That day after you had been towed out the second time and the steamer held your line all day and the next night, did you go ashore that day?

A. I told you that is a thing I don't remember if I did or not.

Q. Really, Captain, don't you remember that?

A. No.

Q. Don't you remember that you made a statement under oath before a notary public up in Hilo that you did not? Tell us the truth, Captain, don't tell us you don't know now?

A. I went the next day ashore.

Q. I am asking you that day, Captain, you didn't go ashore, did you?

A. No, I don't remember. I don't think I did.

Q. Didn't you remember that well enough to make oath to it in Hilo before the notary public?

A. No.

Q. You don't remember that?

A. Yes, I remember.

Q. Then you did not go ashore that day?

A. No, I went ashore the next day.

Q. Why didn't you go ashore until the next day?

(Deposition of J. A. T. Olson.)

A. I thought it might blow up again. It did not blow much that night but—but—but I didn't trust exactly the weather that night.

Q. Is that the reason you included in your affidavit? [133] A. Yes.

Q. It is? A. Yes.

Q. That you were afraid to leave the vessel?

A. Yes.

Mr. RUSSELL.—That is objected to if the Court please. If there is anything in that affidavit that describes the reason the counsel should call to his attention and ask him if that is the reason.

The COURT.—That is that he did not go ashore because—

Mr. WARREN.—That is the weather was too rough for it to be safe.

Q. Didn't you make that statement, Captain, up in Hilo?

A. No, I did not. I have got the affidavit here. I have got a copy of it and I didn't say the—what was on the affidavit, the weather was moderating that night you know. The weather is moderating. There is nothing about that there that the weather was rough.

Q. You didn't put that in the affidavit, Captain?

A. It is there (pointing to paper).

Q. This is a duplicate of your notice, marine notice of protest made before George H. Williams, notary public, January 15th 1914? A. Yes.

Q. Then, Captain, do you remember the conversation that you had in the office of the Hilo Mercantile

(Deposition of J. A. T. Olson.)

Company in the presence of myself, Mr. McCoy, Mr. Nichols, and I think also Mr. Bartels of Hackfeld and Company, I am not sure about the latter, in which you stated that you had not made a note of marine protest for the reason that you could not have safely left the ship, didn't you say that?

A. Yes, I believe I said that.

Q. You believe you did? A. Yes.

Q. The weather was too rough for you to have risked leaving the ship, that is why you could not make your protest within twenty-four hours?

A. The weather was not exactly rough, but I was [134] doubtful about the weather, about it blowing up, but the weather was not rough. The weather report will—

Q. Do you remember Mr. Nichols saying to you that it would be well for you to include that in your affidavit on the protest in order to show why you had not noted a protest within twenty-four hours, do you rememeber that?

(No answer).

Q. What signal flags did you send up? A. N. C.

Q. What does that mean?

A. Immediate assistance.

Q. And at that time you were sure the boat was slacked down with a surf-line? A. Yes.

Q. And hauled back with a surf-line? A. Yes.

Q. And when they had gotten the surf-line up to your vessel as you were taking it on board that time,

(Deposition of J. A. T. Olson.)

in what direction was the "Halcyon" headed, toward what point on the land, if anything?

A. She was heading right head out, head out towards the whistling-buoy, as near as I could see.

Q. Head out towards the whistling-buoy?

A. Yes, sir.

Q. Did she at any time head any nearer in than that towards the hill?

A. No, she commenced to swing a little, port a little too when I got it.

Q. She was beginning to turn broadside when the line came? A. Yes.

Q. Do you think she got around as much as a quarter? A. A quarter of a point.

Q. Say on her port quarter, to get the beach on her port quarter?

A. Yes, she commenced to get the beach a little on the quarter.

Q. Now, when Pilot Mosher came out in a small boat, a small [135] launch, to which side of your vessel did he come first?

A. I didn't notice him before he was right astern of me and his launch seems to be breaking down and he dropped his anchor until he got his machinery started again in the launch.

Q. He was completely astern of you when you noticed this?

A. He was completely astern of me when I noticed this. Some of the boys said they saw him before, but I didn't see him before.

(Deposition of J. A. T. Olson.)

Q. And when you saw him again in what direction was he heading?

A. His launch was broken down and he had already anchored when I first noticed him.

Q. After he got his launch in shape again on what side of your vessel did he come aboard?

A. I didn't notice what side. I didn't notice him until he was right on the deck and speaking to me.

Q. Was that line from the steamer aboard your vessel before or after the pilot came out?

A. I don't remember it. I think we was just about working, getting the line somewhere around there, I don't remember if the line was already passed or if he had come.

Q. How long was he held up by the launch being out of order? A. Not very long.

Q. As much as ten or fifteen minutes?

A. I don't think that long.

Q. When did you first notice him aboard?

A. I didn't notice him when the launch broke down and I didn't notice when his engines started again, so I couldn't tell exactly how long he was in getting in there.

Q. What was the condition of things when Pilot Mosher got on board the schooner, when you first noticed him on board, had the line been run?

A. It was either run or he was running it. Either run or running. He was working there with the line at that time. I don't know whether the line was fast, I don't think the line was fast. [136]

Q. Until the time your line was fast your vessel

(Deposition of J. A. T. Olson.)

was gradually drifting broadside? A. Yes.

Q. And when that one line was made fast did they do any heaving before they ran the second line?

A. I think he hauled that line taut.

Q. And did that change the position of the schooner to head her around straight?

A. Yes, she commenced to straighten up.

Q. And then they ran the second line?

A. And then they ran the second line.

Q. Then what did the steamer do?

A. I believe he was heaving in his anchor, and taking in the slack.

Q. Do you know how many anchors the steamer had out? A. I don't know.

Q. Now, after heaving on it they picked up their anchors, the steamer? A. I suppose he did.

Q. And then steamed? A. I suppose he did.

Q. Now, was there any stopping in that work of the steamer from the time they got that first line on until she got you out, did she stop work?

A. No, they did not stop, working all the time.

Q. And when you had been towed out somewhere near the "Enterprise," was it? A. Yes.

Q. Then you dropped your anchor? A. Yes.

Q. At whose suggestion, yours or Captain Mosher's? A. Captain Mosher's.

Q. Then did you make any signal to the steamer to stop?

A. The time that Captain Mosher came on board I left it to him, it was his business taking the vessel up then.

(Deposition of J. A. T. Olson.)

Q. You were right near? A. Yes.

Q. Did he make a signal to the steamer to stop towing? [137]

A. I believe he did because Captain Mosher had come aboard too.

Q. After you had stopped towing and had dropped anchor, you and Captain Mosher went over to the steamer in Captain Mosher's launch?

A. Yes, sir.

Q. What conversation did you have over there with the captain of the steamer?

A. We asked him if we could have a line on board, I was going to-night.

Q. That is to hold on during that day? A. Yes.

Q. And night? A. Yes.

Q. What did he say to that?

A. All right, he said.

Q. Did he say anything further than all right?

A. I believe he wanted to move a little further out, drop his anchor a little further out—he wanted to do something anyhow.

Q. Wanted to get his anchors in a little better position? A. That is about it.

Q. So to do that he let go of your lines for the present? A. For the present.

Q. Then he got his position? A. Yes.

Q. And dropped his two anchors? A. Yes.

Q. And took your chain—took your line on again?

A. Yes.

Q. And you lay that way until the next morning about seven o'clock?

(Deposition of J. A. T. Olson.)

A. Somewhere around there, and he made a signal to us to let it go.

Q. And by that time the weather had moderated a good deal? A. Yes, sir.

Q. Did you drop your own anchor as well?

A. I had my own anchor down all the time.

Q. And how much chain had you out?

A. Forty-five fathoms in the water, the kedge.

Q. And from that time you lay at that one anchor for several days [138] until you came to the wharf to discharge again? A. Yes.

Q. And the weather had moderated a great deal, had it not? A. Yes.

Q. During that time as you lay there, the wind and sea were pretty strong, were they not?

A. Well, not a great deal more—not a great deal. A great deal better than it was that night of the 13th.

Q. And better than the night of the 14th?

A. Yes.

Q. The night of the 13th, that moderated a great deal then? A. Yes.

Q. And the morning of the 14th you were able to lay at your own anchor?

A. Oh, well, we would have laid there that night too.

Q. But you didn't ask to have the line let go?

A. No, I didn't ask.

Q. And in the morning did you ask to have the line let go or did the captain of the steamer call to you to let go? A. He called to me to let go.

(Deposition of J. A. T. Olson.)

Q. And you cast off on board the schooner?

A. Yes, sir.

Redirect Examination of J. A. T. OLSON.

Mr. RUSSELL.—Now, you say, Captain, that during the time elapsed from the time that the hawser parted and until you put up your flags, that you don't know what the steam vessel did. Now, do you mean to say that you did not observe the vessel at all during that time?

A. Oh, yes, I observed her, I looked at the vessel, I seen that. [139]

Q. Can you state whether or not she moved about any?

A. No, I could not say. I could not—I could not state that.

Q. How many times did you see her—that is, how frequently did you see her, how often?

A. Every time I looked in that direction.

Q. And could you tell as you observed her whether or not she moved; was it possible for you to say whether or not she had moved?

A. Oh, well, it is pretty hard for me to tell whether she had moved or not.

Q. It was dark, was it, that night?

A. No, that was not dark, that was clear light at that time.

Q. If she did move it was just a short distance?

A. Yes, not very—she could not move very far, I guess.

Q. So that if she had made a circle of any sub-

(Deposition of J. A. T. Olson.)

stantial radius you would have observed her?

A. Yes, I would have, I think so.

Q. Now, you say that at the time that the hawser parted you did not see the line, but that you did see one before; well, how long before was it?

A. Oh, about a minute before.

Q. And did you observe that the hawser was then all out of the water? A. Yes, that is right.

Q. Well, now, say at the point where the hawser parted how much out of the water was she?

A. Oh, she might in a sea way you know—she might be a foot from the water or she might be a few inches from the water. She wouldn't be in the same way all the time you know in a sea way.

Q. And how high out of the water was the—was the "Halcyon" then?

Mr. WARREN.—At the bow where the rope was?

Mr. RUSSELL.—At the bow, yes. [140]

A. At the bow?

Q. Yes.

A. Oh, the vessel's bow would be about sixteen feet I should think out of the water.

Mr. WARREN.—At the chock?

A. Yes, somewhere around sixteen feet I should say.

Mr. RUSSELL.—And it would be just about the point where you have described as the chock that the tow-line was attached or run?

A. I didn't catch that question.

Q. This tow-line comes to the chock—the tow-

(Deposition of J. A. T. Olson.)

line is attached to the vessel and goes out or through the chock?

A. She goes through the chock. The tow-line being in the chock *then the* was fast to the mast, but she parted away outside of the chock, half ways between—

Q. Yes, I understand. Then the tow-line was up about sixteen feet from the water? A. No—

Q. No, that is—

A. Too long. It is almost impossible for a long line to be as a fiddle string, also you know she will sag a little down, you know.

Q. I mean right there at the boat, right there at your vessel where she was attached? A. Yes.

Q. She was about sixteen feet from the water line? A. Yes.

Q. Now, did the rope slacken any during that tow?

A. No, not much. It could not slacken much in that wind and sea you know. The vessel was hanging on to the steamer then, nothing else holding her there but the tow rope. It would not slack any time, it would be taut all the time.

Q. In other words the steam vessel was pulling all the time?

A. All the time, even if she was not pulling the rope would be tight because the vessel would be back.

Q. Well, do you know where those buoys are there in the harbor— [141] you have observed the location of the buoys? A. Yes, sir.

(Deposition of J. A. T. Olson.)

Mr. WARREN.—Those are the three that have been mentioned before? A. Yes.

Mr. RUSSELL.—Are there any other buoys there in the harbor in that vicinity?

A. Not to my knowledge.

Mr. WARREN.—The others are further out.

Mr. RUSSELL.—Now, do you recall your position, where you were just at that time while you were being towed? A. Yes.

Q. Do you recall the direction that you were proceeding in that tow? A. Yes, I recall.

Q. Now, were any of those buoys there between you and the vessel?

A. No, sir. The buoys were on the starboard side, all of the buoys.

Mr. WARREN.—On the starboard side?

A. The buoys was all on the starboard side. Of course that time we was towing, I remember that well, because my line—my line that I was paying out, she was laying right across my—I had it in on the port bow, you see, and they were laying right across that line that I was paying out. She was lying right across my bow there that way (illustrating) so my buoy—the buoy must be on the starboard side of me the time she was towing on me.

Q. So that it was impossible for the tow-line to have come in contact with any of those buoys?

A. Yes, impossible. I don't see very well how they could. I didn't notice exactly the buoys, but the way that line was what I was paying out and

(Deposition of J. A. T. Olson.)

was leading to, the buoys must have been on the starboard side of it.

Q. Had you ever been in the harbor before?

A. Once, about four or five years ago.

Q. How long were you there?

A. Oh, I was there about a week I think. [142]

Mr. RUSSELL.—This is a duplicate marine note of protest? A. Yes.

Mr. RUSSELL.—I ask that this be marked Libellant's Exhibit 3 for identification.

(Note of protest marked Libellant's Exhibit 3 for identification, J. W. J.)

The COURT.—Captain Olson, what time of day was it when the first tow-line parted?

A. When the line on the wharf, your Honor, or the tow-line?

Q. The first line, the tow-line?

A. The tow-line, about half-past six in the morning, about six-thirty in the morning.

Q. And was it light?

A. Yes, it commenced to get light.

Q. And what kind of weather was it, was it raining? A. Yes. Yes, squally weather.

Q. Was it what you would call heavy?

A. Well, rain, showers, and squally weather.

Q. Well, now, would it have been possible for the steamer to have at that time made a circle around the bay and come in and anchored nearer to you than before without your noticing it?

A. No, I don't think they made any circle. I don't think so. I think I would have noticed if he

(Deposition of J. A. T. Olson.)

had made a big circle.

Mr. WARREN.—The buoys were on your starboard side, Captain, when you were being towed that time? A. Yes.

Q. Then you were between the buoys and the wharf were you?

A. Oh, no. I could not be between the buoys and the wharf. The starboard side is my right-hand side when I stand in the ship and look forward, and the port was on the left-hand side.

Q. Then let me ask you about your anchors, were you not mixed up— [143]

A. You may have noticed because I changed the anchors afterwards.

Q. You changed anchors?

A. I changed anchors afterwards because I got to use the port anchor being alongside the wharf, so the time I had to go alongside the dock again I changed and put my starboard anchor at the port side when Captain Mosher was there, at the same time I done it.

Q. And you did that before you came up to the dock the second time?

A. The second time. And it was done in the morning.

Q. Still you didn't notice any of the buoys when you were being towed that time?

A. No, I didn't notice because my line was fast to them. I know the direction of the line aboard. He was towing me this way, and here is like the tow of the steamer. Now I cannot exactly say that was the

(Deposition of J. A. T. Olson.)

distance it was, but I illustrate it (illustrating on chart of Hilo Bay, marking position of steamer with letter S). Now I ain't going to tell you the distance but I show you the position, one to the other. Now he towed me here and I made a line fast to that (Indicates position of "Halcyon" with letter H.) I was letting out all the time on this line, from that buoy up here slacking out. I had the line on the port bow and that line was across my bow and I was slacking out all the time on that line, and just after I slipped, the tow-line carried away.

(Position of buoy is marked with the letter B by witness.) The witness draws a line on the chart from point marked B to point marked H as indicating the line that was being slacked while in tow. Chart referred to being Libellant's Exhibit "B.")

Mr. WARREN.—But this point B, Captain, that you have just marked on this map is not intended to indicate the position of the buoy?

A. Not exactly the position of the buoy. [144]

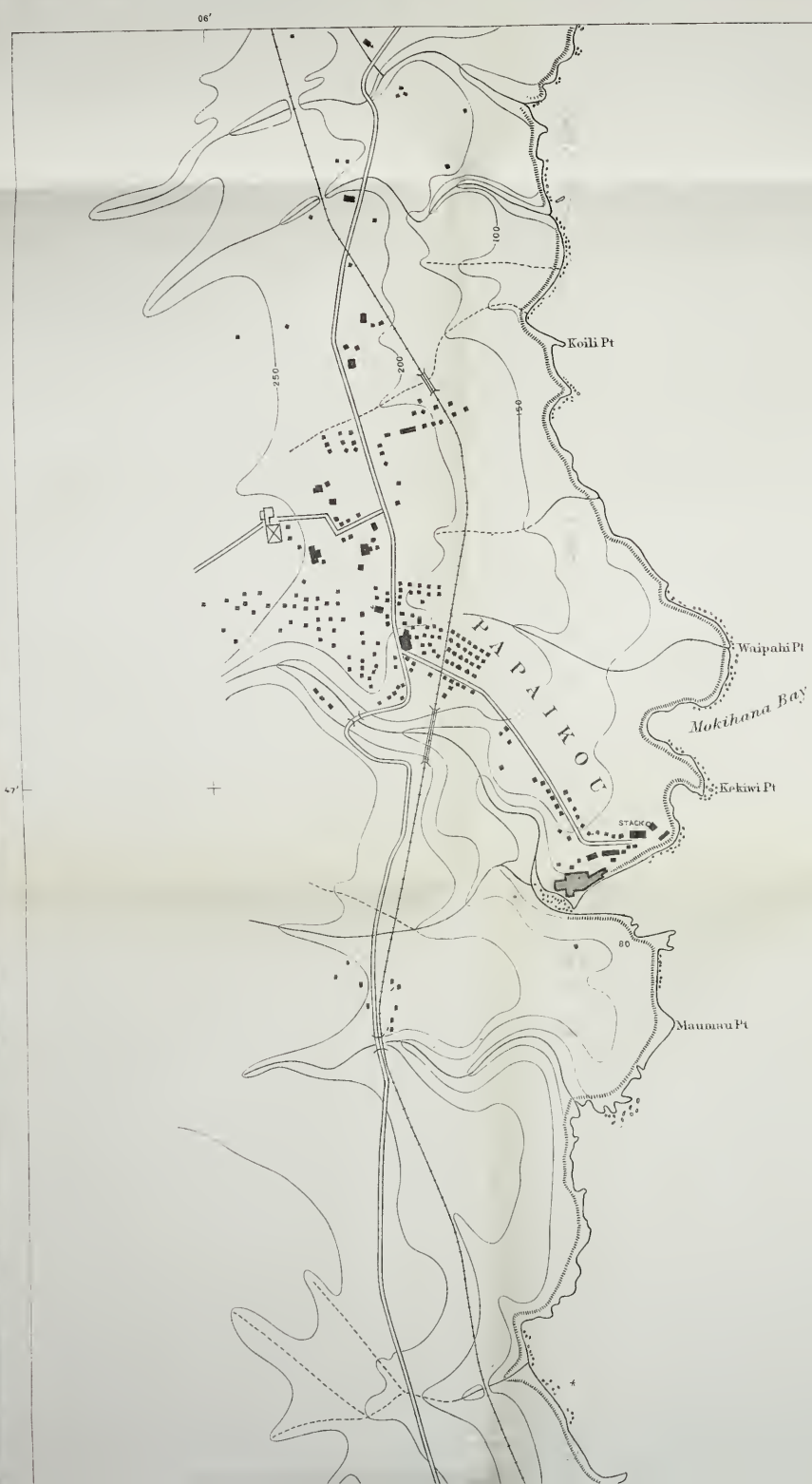
Q. That buoy was the one nearest the shore?

A. Yes, but that is used to show that I had the buoy on that side when I was towing, on my star-board side.

The foregoing is a true copy of my shorthand notes.

(S.) J. W. JONES.

[Endorsed]: No. 139. (Title of Court and Cause.) Depositions *De Bene Esse* of Fred Sach et als. Filed Apr. 1, 1914. A. E. Murphy, Clerk. By (Sgd.) Wm. L. Rosa, Deputy Clerk. [145]



155°05'

04'

268 gy S h-k Sh

208

130

160

260

115

124

gy G h-k Sh

260

214
Sh

118

100

h-k Sh G

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118
Lo

88

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148 gy S

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Co h-k Sh

136

124

Sh gy S

124

118
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155°05'

04'

03'

258
nm1 Sh

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240

202

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115

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gy G brk Sh

240

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142

148 gy S

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the gy S

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124

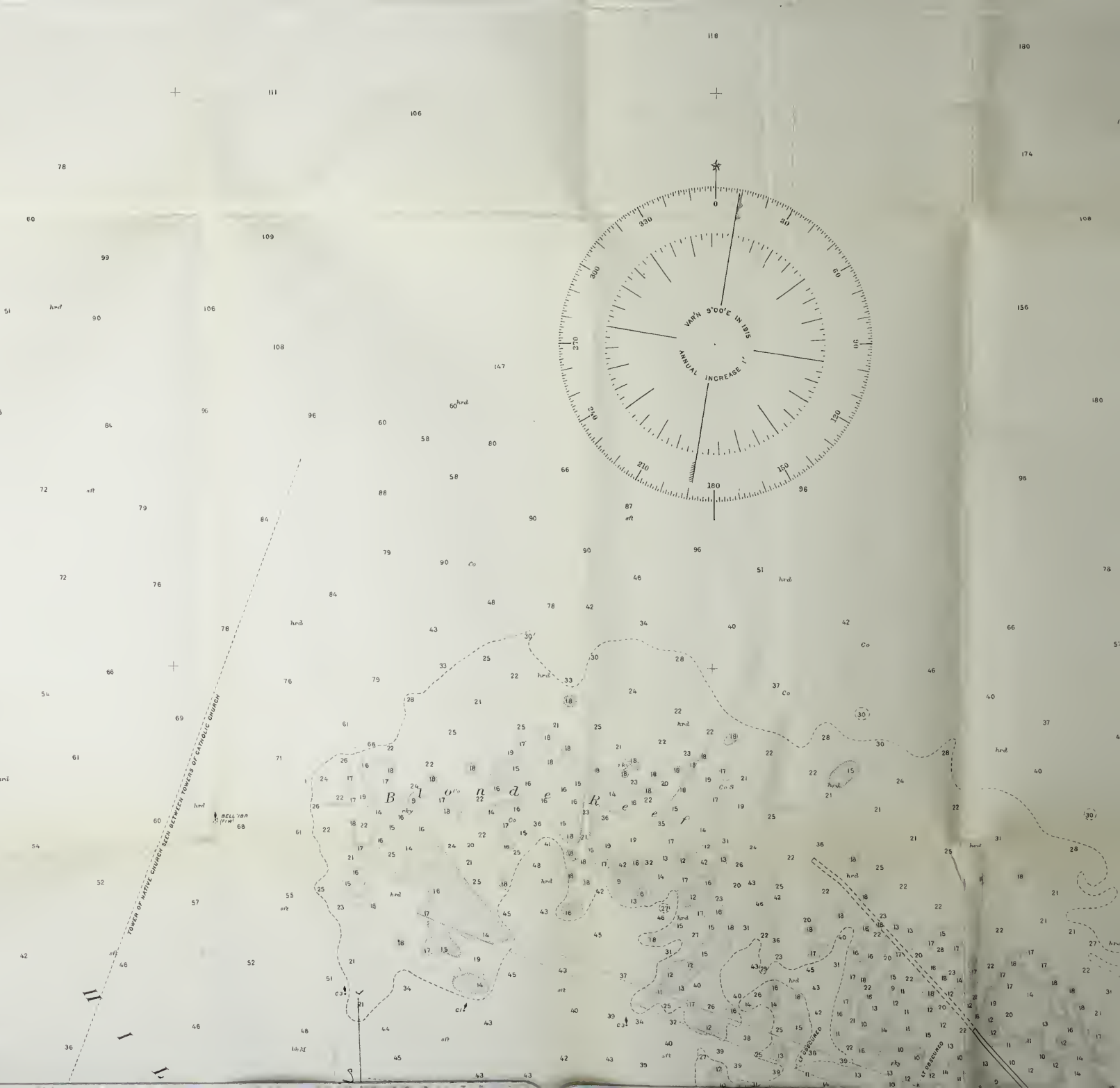
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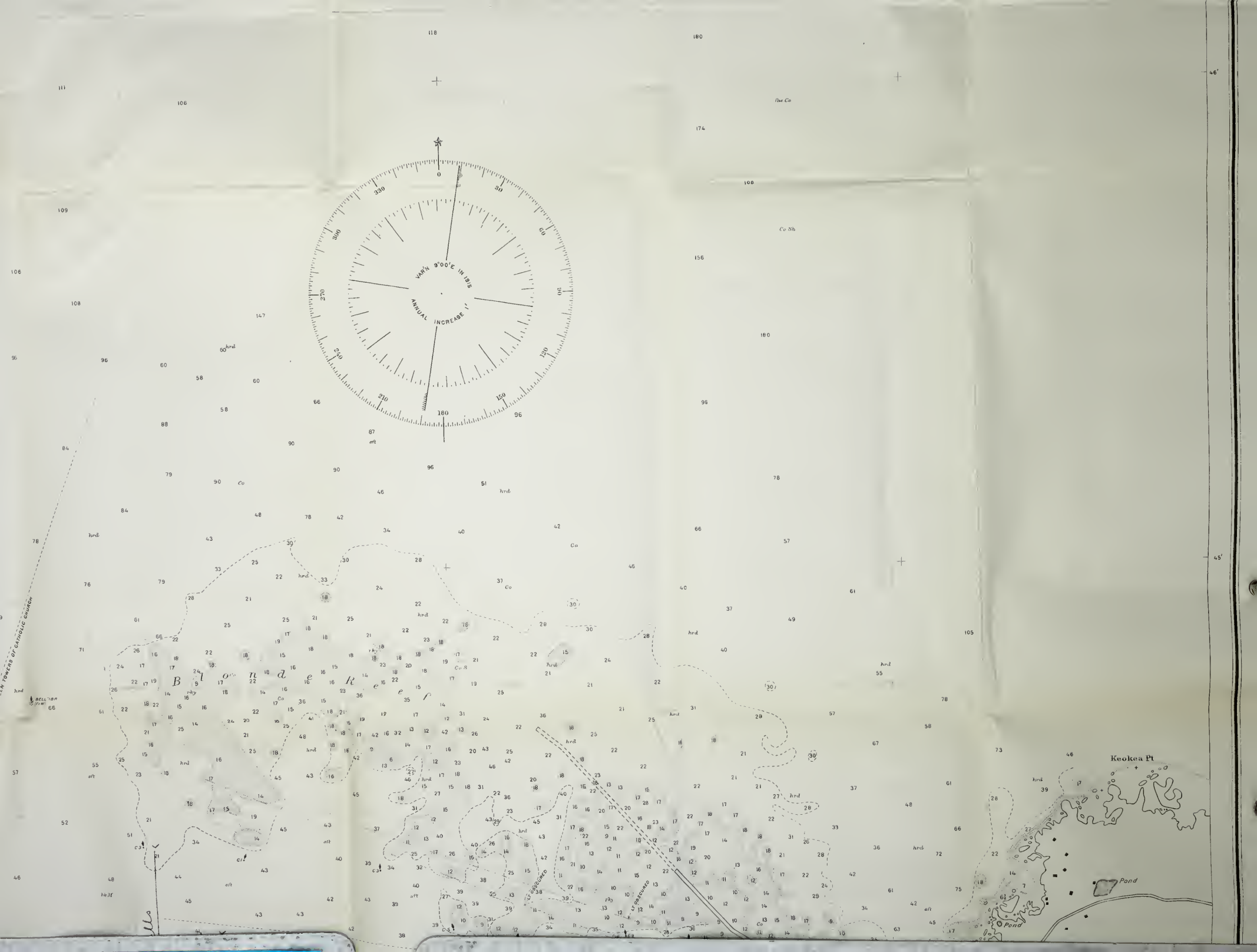
124

156

130

brk Sh





TIDES
 High water interval
 Higher high water height
 Lowest tide

Hilo
 3^h 09^m
 2 ft.
 -1 0 -

No. 139
 United States District Court.
 Territory of Hawaii.

INTER-ISLAND STEAM NAVIGATION CO.
 etc.

-vs.-

THE AMERICAN SCHOONER "HALEYON"
 etc.

LIBELLEES EXHIBIT #1.

Filed FEBRUARY 3, 1914.

A. E. MURPHY, Clerk.

By

H. J. Davis
 Deputy Clerk.

Haloi Beacon

ABBREVIATIONS

Lights: F. fixed, Fl. flashing, Occ. occulting, W. white, R. red,
 Alt. alternating, Gp. group, Sec. sector in miles,
 min. minutes, sec. seconds, ev. every, vis. visible.
 Color white unless otherwise indicated
 Buoys: C. can, M. morn, S. spar.

M. mud, S. sand, G. gravel, Sh. shells Co. coral, bk. black, gy. gray, dk. dark,
 hrd. hard, sft. soft, fine fine, coarse, rky. rocky, brk. broken, sml. small,
 P.D. position doubtful, E.D. existence doubtful.

HEIGHTS in feet above high water

636.9-9837

155° 05'

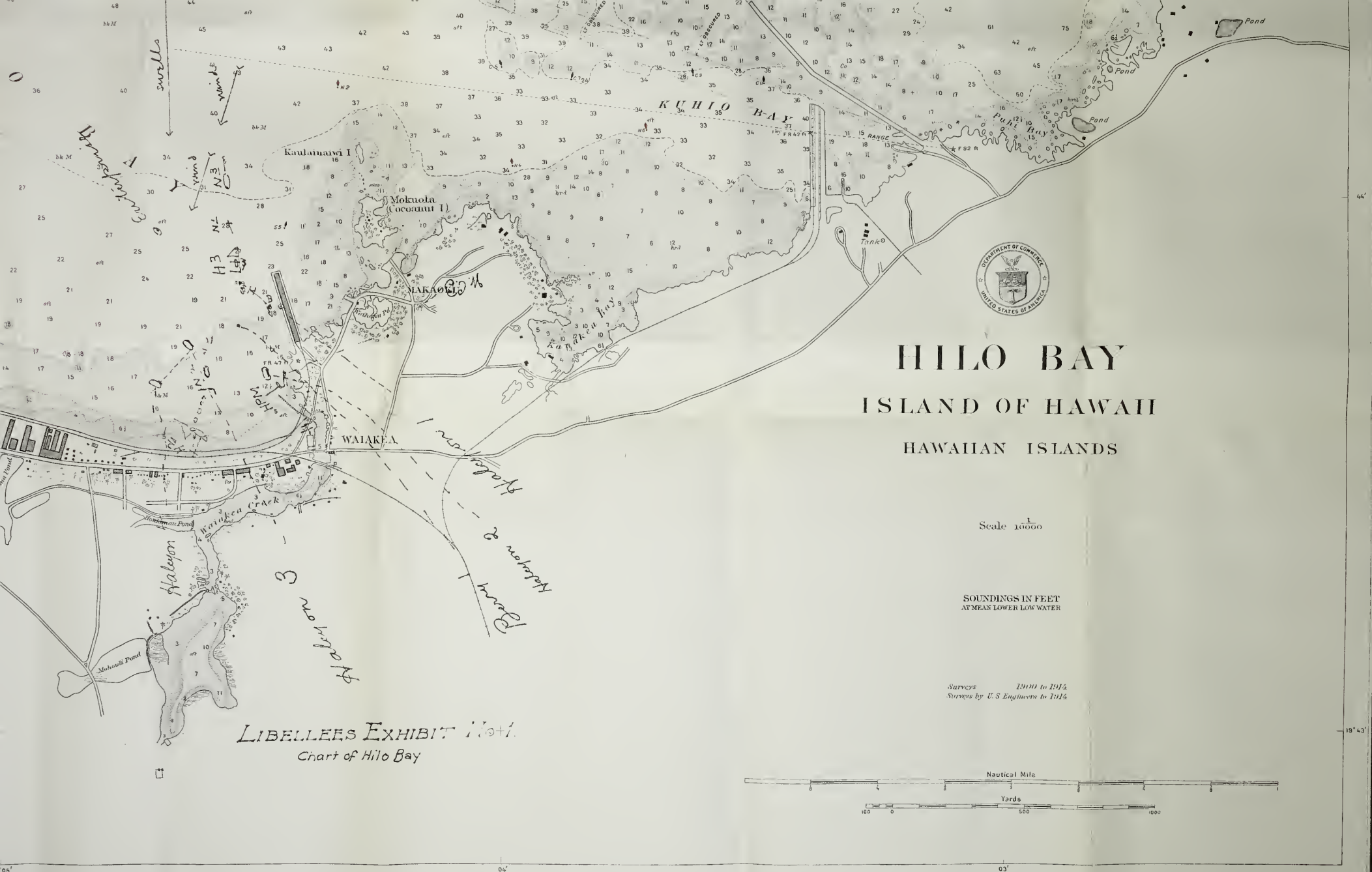
04'

LIBELLEES EXHIBIT No. 1.
 Chart of Hilo Bay

Washington, D. C.
 COAST AND GEODETIC SURVEY
 March 1915

LIGHTS, BEACONS, BUOYS, AND
 FOR INFORMATION RECEIVED

for identification
 W. R. Jan 21/14



identification
W.R. Jan 21/14

Washington, D.C.
COAST AND GEODETIC SURVEY
March 1915

LIGHTS, BEACONS, BUOYS, AND DANGERS CORRECTED SEP - 7 1916
FOR INFORMATION RECEIVED TO DATE OF ISSUE

(Hilo Bay)

C & G S

4103



155°05'

04'

258
mst Sh

268
gy S brk Sh

130

160

208

240

115

124
gy S brk Sh

240

216

214
Sh

118

100
brk Sh G

192

130
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Maununu Pt

148
gy S

68

Co brk Sh

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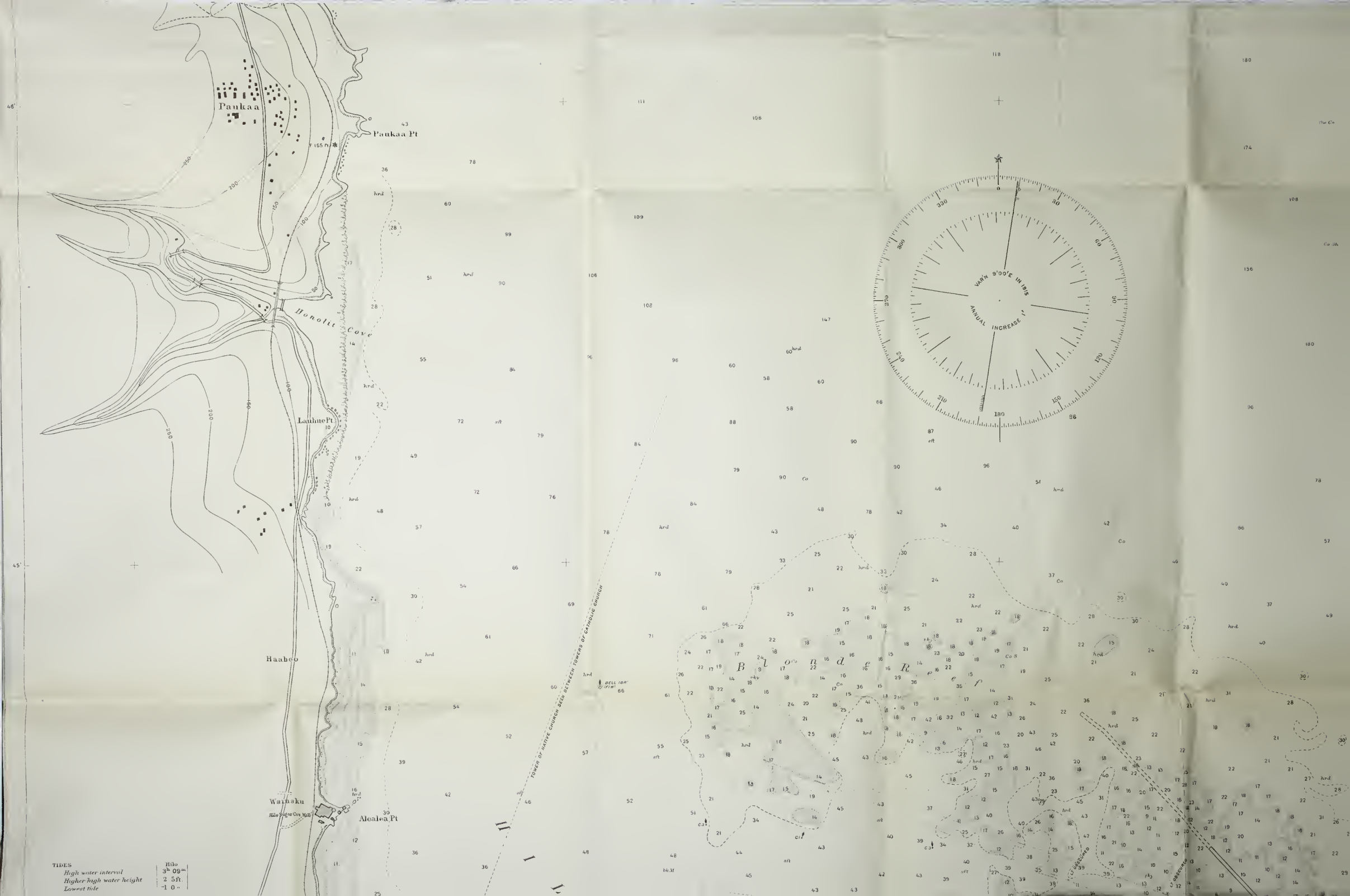
124

dk gy S

124

156





TIDES
Hilo
High water interval
3^h 09^m
Higher high water height
2.5 ft.
Lowest tide
-1.0 "

No. 139.
United States District Court
Territory of Hawaii.

INTER-ISLAND STEAM NAVIGATION CO.,
etc.,
-vs-
THE AMERICAN SCHOONER 'HALEYON', etc.

LIBELLEES EXHIBIT #2
Filed FEBRUARY 3, 1915.
A. E. MURPHY, Clerk.
By *J. L. Love*, Deputy Clerk.

ABBREVIATIONS

Lights F. fixed, Fl. flashing, Occ. occulting, W. white, R. red,
Alt. alternating, Gp. group, Sec. sector, m. miles,
min. minutes, sec. seconds, ev. every, vis. visible.
Color white unless otherwise indicated.
Buoy's C. can, N. nun, S. spar

M. mud, S. sand, G. gravel, Sh. shells, Co. coral, bk. black; gy. gray, dk. dark,
hrd. hard, sh. soft, fine, crs. coarse, rky. rocky, brk. broken, smt. small,
P. D. position doubtful, E. D. existence doubtful

HEIGHTS in feet above high water

686 g-263.7

06'

155° 05'

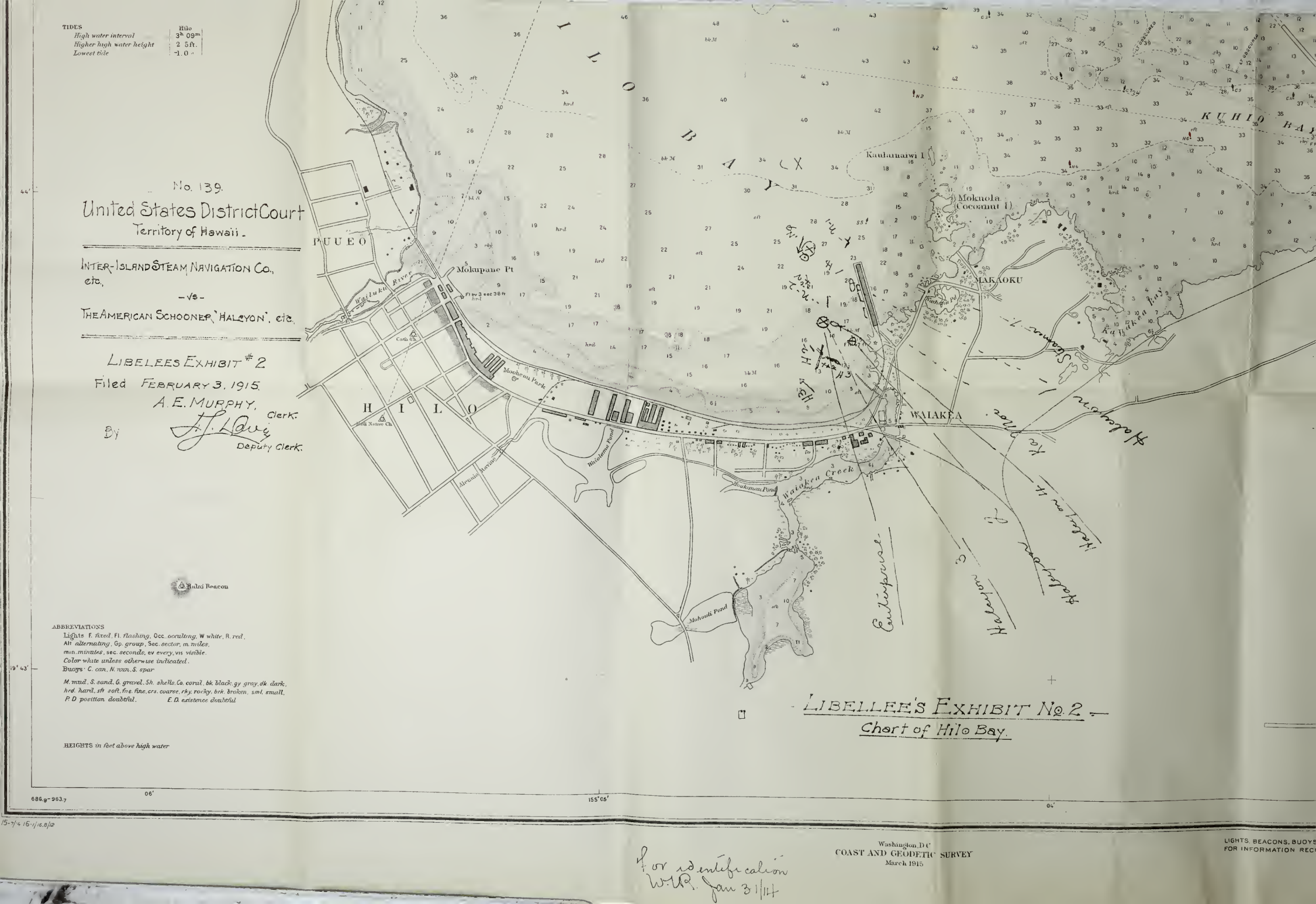
04'

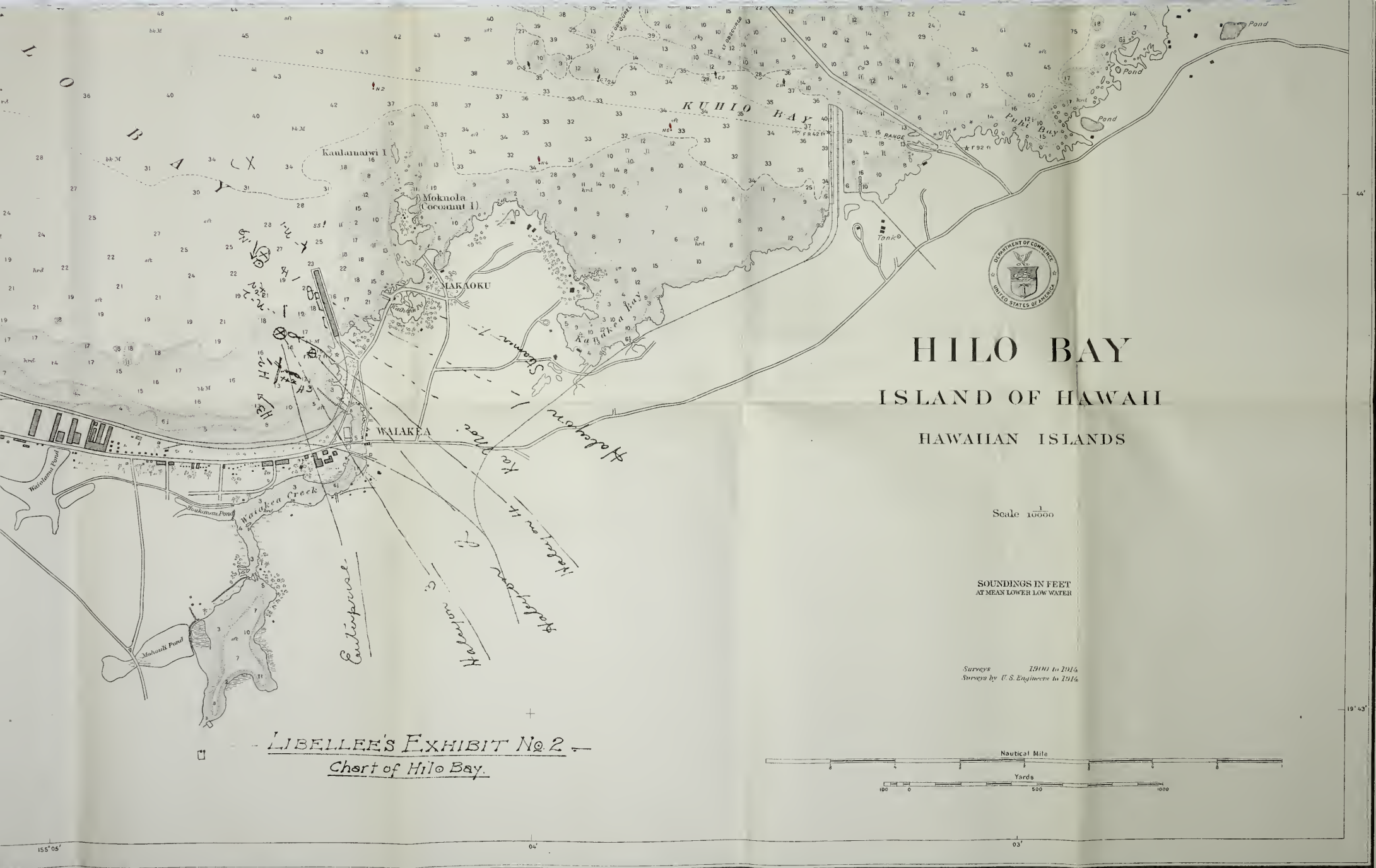
Washington, D. C.
COAST AND GEODETIC SURVEY
March 1915

LIGHTS, BEACONS, BUOYS
FOR INFORMATION RECD

For identification
W. H. R. Jan 31/14

15-7/4 16-1/4 15.8/2





[Title of Court and Cause.]

Answer.

To the Honorable SANFORD B. DOLE, Judge of the United States District Court in and for the District and Territory of Hawaii.

The answer of J. A. T. Olsen, master and claimant of the schooner "Halcyon," and her cargo and freight money, to the libel and complaint of the Inter-Island Steam Navigation Company, Limited, against the said schooner, her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money, alleges as follows:

First. Answering the paragraph numbered "1" thereof, the claimant admits that at the times mentioned in said libel the libellant was a corporation organized under and existing under and by virtue of the law of the Territory of Hawaii, and was the owner of the steamer "Niihau."

Second. Answering the paragraph numbered "2" thereof, the claimant says that he is not informed as to the matters alleged in said article, and therefore does not admit the same, but leaves libellant to prove the same as may be advised. [148]

Third. Answering the paragraph numbered "3" thereof, the claimant admits that the said schooner "Halcyon" was a vessel of the tonnage of 293 tons, having three masts, and that the said schooner was laden with a cargo of lumber destined for the port of Hilo, but alleges that he is not informed of the value of said schooner nor of the value of the said cargo.

Fourth. Answering the paragraphs numbered "4," "5," "6" and "7" thereof, the claimant alleges that the matters therein set forth and alleged are in great part falsely stated, and that the truth is as hereinafter set forth, to wit:

That during the night following the 12th day of January, 1914, while the said "Halcyon" was lying moored to the Hilo side of the railroad wharf (so called) in said harbor of Hilo, secured by a head-line and a stern-line from starboard to the wharf and by lines on the port side to mooring buoy, the said head-line broke loose from said wharf by reason of the violence of the wind and sea then prevailing, and thereupon drove toward another schooner, to wit, the "Ka Moi," then moored alongside of said wharf immediately astern of the said schooner "Halcyon" and collided with the said "Ka Moi"; that in order to avoid serious damage to the said "Ka Moi," the claimant caused to be loosened the stern-line of said "Halcyon" from said wharf and the offshore line to the buoy was hauled taut, thereby clearing the said "Ka Moi" and the said "Halcyon" was thereupon held to said buoy by said line thereto and with her both anchors cast; that with her anchors so held and so moored to the buoy, the said "Halcyon" remained safely for several hours; that later as the sea roughened, the claimant observed the vessel very slowly dragging her anchors and ran another line to the said buoy; that while so moored to said buoy and notwithstanding the dragging of her anchors, the vessel was in no danger of drifting toward shore nor to the rocks nor reefs; that subsequently one of the lines to said

buoy parted, and thereupon [149] your complainant concluded, as a matter of precaution, to be towed out farther from shore and to be anchored at a greater distance from shore; that accordingly the claimant flashed the signals and about an hour thereafterwards he hailed some persons rowing in a small life-boat and stated to them that he desired a line for a tow; that sometime afterwards the said steamer "Niihau" gave said "Halcyon" a hawser for the purpose of being towed farther out from shore; that up to this time the said "Halcyon" had not been drifting toward shore and was at all times securely held to said buoy.

That thereupon the said "Halcyon" began to heave its anchors and in doing so one of said anchors was lost; that the said "Niihau" then proceeded to tow the said "Halcyon" away from said buoy and when such tow had proceeded a distance of 100 fathoms or thereabouts, the hawser broke; that thereupon the claimant caused the remaining anchor to be cast to await another tow-line; that the said anchor did not hold the vessel and consequently she drifted toward shore; that although more than an hour elapsed, during which time the said "Niihau" had sufficient opportunity to give the "Halcyon" another and additional lines, yet the said "Niihau" made no effort whatsoever to supply any line or give to the said "Halcyon" any assistance whatsoever, until when the claimant observed the vessel very close to the breakers and in danger of running ashore he hoisted the signals for immediate assistance, and it was only after the hoisting of said signals that the "Niihau" ren-

dered any further assistance, and thereupon the said "Niihau" supplied the said "Halcyon" with *two* line by means of which the said "Niihau" towed the vessel to a safe anchorage and held her away a considerable distance from shore.

That at none of the said times herein alleged was the said steamer "Niihau" or any of the persons thereon exposed to any risk or peril, and the services performed by the said "Niihau" or any [150] of the members of its crew were not of a salvage nature; that the drifting of the said "Halcyon" toward shore was caused solely and mainly as the result of the fault of said "Niihau" in providing a defective hawser, and at all events it was the duty of the said "Niihau" to have supplied other hawsers immediately upon the breaking of the hawser during the original tow, and at most the said libellant might be entitled to some fair compensation for towage by reason of and pursuant to the claimant's agreement for such towage.

Fifth. And the said claimant further answering, denies each and every allegation in said libel contained not consistent with the allegations herein alleged.

That all and singular the premises are true.

WHEREFORE, the claimant prays that said libel may be dismissed, with costs.

(Sgd.) HARRY IRWIN and
J. W. RUSSELL,
Proctors for Claimant.

Territory of Hawaii,
County of Hawaii,—ss.

J. A. T. Olsen, being duly sworn, deposes and says:

That he is the claimant mentioned and described in the foregoing answer; that he has read the foregoing answer and knows the contents thereof and the matters therein stated and set forth are true.

(Sgd.) J. A. T. OLSEN.

Subscribed and sworn to before me this 20th day of February, 1914.

[Seal] (Sgd.) S. S. ROLPH,
Notary Public, Fourth Judicial Circuit, Territory
of Hawaii. [151]

[Endorsed]: No. 139. (Title of Court and Cause.)
Answer. Filed February 24, 1914. A. E. Murphy,
Clerk. By (Sgd.) F. L. Davis, Deputy Clerk. [152]

Minutes of Court—August 16, 1915.

(PROCEEDINGS AT THE TAKING OF TESTI-
MONY OF SIX WITNESSES ON BEHALF
OF THE LIBELLANTS.)

(DOLE, Presiding Judge.)

From the Minutes of the United States District
Court: Monday, August 16, 1915, Vol. 9, part 2,
Folio 754.

[Title of Court and Cause.]

On this day came Mr. L. J. Warren of the firm of
Smith, Warren & Sutton, proctors for the above
libellants and also came Mr. J. W. Russell, proctor for
the libellee herein and this cause was called for fur-
ther hearing. Thereupon Frank Carlson, Moki,
Manuel Lacerdo, Kaimi, Ralph Balding and R. W.
Filler were called and sworn and gave testimony on
behalf of the libellants, whereupon the time for ad-

jourment having arrived, it was by the Court ordered that this cause be continued to August 17, 1915, at 10 o'clock A. M., for further hearing. [153]

Minutes of Court—August 17, 1915.

(PROCEEDINGS AT THE TAKING OF THE
TESTIMONY OF FOUR WITNESSES ON
BEHALF OF THE LIBELLANTS.)

(DOLE, Presiding Judge.)

From the Minutes of the United States District
Court: Tuesday, August 17, 1915, Vol. 9, part 2,
Folio 755.

[Title of Court and Cause.]

On this day came Mr. L. J. Warren of the firm of Smith, Warren & Sutton, proctors for the libellants and also came Mr. J. W. Russell, proctor for the libellee and this cause was called for further hearing. Thereupon H. P. Morton, W. F. Thompson, Capt. W. C. Bruhn and F. Mosher were called and sworn and gave testimony on behalf of the libellants, whereupon the time for adjournment having arrived it was by the Court ordered that this cause be continued to August 18, 1915, at 10 o'clock A. M., for further hearing. [154]

Minutes of Court—August 18, 1915.

(PROCEEDINGS AT THE TAKING OF THE
TESTIMONY OF WITNESSES ON BE-
HALF OF THE LIBELLANT AND LI-
BELLEE.)

(DOLE, Presiding Judge.)

From the Minutes of the United States District
Court: Wednesday, August 18, 1915, Vol. 9, part
2, Folio 756.

[Title of Court and Cause.]

On this day came Mr. L. J. Warren of the firm of
Smith, Warren & Sutton, proctors for the libellant
and also J. W. Russell, proctor for the libellee herein,
and this cause was called for further hearing.
Thereupon Captain W. C. Bruhn gave further testi-
mony on behalf of the libellants and David Hao, Jr.
was called and sworn and also gave testimony on be-
half of the said libellants. Thereupon libellants
having closed their case subject to the taking of fur-
ther testimony in Honolulu, R. W. Filler was re-
called and John D. Easton called and sworn and gave
testimony on behalf of the libellee, whereupon the
time for adjournment having arrived it was by the
Court ordered that this cause be continued to Thurs-
day, August 19, 1915, at 10 o'clock A. M., for further
hearing. [155]

Minutes of Court—August 19, 1915.

(PROCEEDINGS AT THE TAKING OF THE
TESTIMONY OF TWO WITNESSES ON
BEHALF OF THE LIBELLEE.)

(DOLE, Presiding Judge.)

From the Minutes of the United States District
Court: Thursday, August 19, 1915, Vol. 9, part
2, Folio 757.

[Title of Court and Cause.]

On this day came Mr. L. J. Warren of firm of
Smith, Warren & Sutton, proctors for the above
libellants and also came Mr. J. W. Russell, proctors
for the libellee herein, and this cause was called for
further hearing. Thereupon A. Duvel and E. F.
Nichols were called and sworn and gave testimony on
behalf of the libellees, whereupon it was by the Court
ordered that this cause be continued until called for
hearing. [156]

Minutes of Court—September 14, 1915.

(PROCEEDINGS AT THE TAKING OF THE
TESTIMONY OF TWO WITNESSES ON
BEHALF OF THE LIBELLANT.)

(DOLE, Presiding Judge.)

From the Minutes of the United States District
Court: Tuesday, September 14th, 1915, Vol. 9,
part 2, Folio 791.

[Title of Court and Cause.]

On this day came Mr. L. J. Warren of the firm of
Smith, Warren & Sutton, proctors for the libellant

herein, and also came Mr. J. W. Russell, on behalf of the above libellee, and this cause was called for further hearing, whereupon A. S. Cantin and L. Paulos were called and sworn and gave testimony on behalf of the libellant at the conclusion of which both sides having closed it was by the Court ordered that said case be submitted on briefs. [157]

[Title of Court and Cause.]

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[159]

[Title of Court and Cause.]

Before the Honorable SANFORD B. DOLE, Judge
of said Court.

Transcript of Testimony.

Hilo, T. H. August 16, 1915.

Testimony of F. O. Carlson, for Libellant.

Direct examination of F. O. CARLSON, a witness
on behalf of Libellant, called and sworn.

Mr. WARREN.—At this time, if the Court please,
counsel in the case have agreed to stipulate the fol-

(Testimony of F. O. Carlson.)

lowing points in this case, namely: That as to values of the vessel and the cargo, the schooner "Halcyon" and cargo, the total value of the cargo with freight, etc. is \$6,381.85; the schooner "Halcyon," \$1500 making a total of \$7,881.85.

Mr. RUSSELL.—With regard to the cargo, the amount stated includes insurance.

Mr. WARREN.—Yes.

Mr. RUSSELL.—And freight. [160]

Mr. WARREN.—Q. Captain, you were second mate of the steamer "Niihau" in the month of January, 1914 at the time the schooner "Halcyon" got into trouble in Hilo Bay? A. Yes, sir.

Q. And will you state what was the first knowledge that you had on board the steamer "Niihau" that night or early that morning that the steamer was in distress and wanted assistance; the schooner was in distress? About what time?

A. Just about four o'clock.

Q. How was that information received?

A. The boat's crew come off with the purser and notified the captain that the schooner "Halcyon" was ashore off the mouth of Waieka River and wanted assistance.

Mr. RUSSELL.—I move, if the Court please, to strike out the testimony of the witness with regard to the conversation as being hearsay.

The COURT.—I will overrule the objection.

Mr. RUSSELL.—Exception.

Q. The purser reported the steamer wanted assistance, the schooner wanted assistance?

(Testimony of F. O. Carlson.)

A. Yes, sir.

Q. What then was done on board the "Niihau"?

A. The captain notified the engineers to get ready.

Q. Then what?

A. The engineers said they were ready.

Q. What was done?

A. We immediately hove up our anchors and moved further in towards the schooner.

Q. At that time where was the "Niihau" lying?

A. We were laying well out to the end of the Hilo railroad wharf.

Q. And about how far from the wharf?

A. I couldn't say exactly how far we were out.

[161]

Q. Approximately.

A. I don't know. We were lying in a safe anchorage. That's all I know.

Q. And where did the "Niihau" go in order to get in position to assist the schooner?

A. We steamed in in a line with the railroad wharf between the moorings and the wharf.

Q. I don't follow you. You steamed in?

A. Steamed in between the railroad wharf and the two moorings, two breast-line moorings where the ship hangs on to.

Q. Then what did she do?

A. She dropped her anchor, two anchors and paid our chains out; ninety fathom on each chain.

Q. And how did she approach the "Halcyon"?

A. Then we took a coil of six-inch line in the ship's

(Testimony of F. O. Carlson.)

boat, the same boat that come alongside in the morning, and bent a four-inch line on to this six-inch line.

Q. And then did what?

A. Sent it on to the schooner "Halcyon."

Q. How did that boat go to the "Halcyon" from the steamer?

A. She was slacking herself in, right straight in.

Q. Slacking in?

A. Slacking herself away on the line.

Q. And personally what do you know of what was done with that rope? A. It was—

Q. Was anything done until the steamer's boat got back?

A. They took the end of the six-inch line on board and made it fast and the boat hauled herself on the line and reported that the line was fast.

Q. Then what did the "Niihau" do?

A. We took the four-inch line and took it to the windlass forward on the fo'c's' le-head and hove tight till we got the six-inch line aboard.

Q. Then what?

A. And then the captain told me to heave up the anchors, two anchors at the same time and also went [162] full speed ahead with the engine.

Q. And you did so? A. And he did so.

Q. Then what further?

A. Then when we got about abreast of the railroad wharf, at the end of the railroad wharf—

Q. "We" meaning what?

A. That is the captain of the "Niihau."

Q. Then what?

(Testimony of F. O. Carlson.)

A. The captain of the schooner threw up his hands in this position. (Indicating.)

Mr. WARREN.—Witness making a motion of throwing both hands outward.

Mr. RUSSELL.—That is objected to unless it appears he saw that.

Mr. WARREN.—Q. Did you see that?

A. No, I didn't see it.

Mr. WARREN.—No objection to its going out.

Q. Do you know personally how long that towing continued and when it stopped?

A. I couldn't say, Mr. Warren. I was busy on the fo'c's' le-head forward there and there was not time to look.

Q. When the "Niihau" got to that position you have stated, about off the end of the wharf, that's where you say the towing stopped?

A. I was told to let go the anchors.

Q. Where was the "Halcyon" at that time?

A. She was just about in a line with the railroad wharf at the other end.

Q. Then what happened to the line?

A. I was told from the captain to heave in the line.

Q. And hove it in?

A. Yes, after we let go the anchor.

Q. Was the line then fast to the schooner?

A. No, the line was gone.

Q. Do you know how it had become loose?

A. I didn't see it.

Q. Do you know what the schooner did?

A. She dropped her anchor. [163]

(Testimony of F. O. Carlson.)

Q. What then did the "Niihau" do?

A. We steamed a little further ahead and anchored.

Q. Now, after that did you observe the "Halcyon" at all?

A. Well, we were watching her there, looking at her; didn't see anything wrong.

Q. About what time of the morning was it that the schooner anchored as you have stated, when the line was gone?

A. About six-thirty; between six-thirty or seven o'clock, I should judge. I had no time to look at the time.

Q. In that neighborhood?

A. Beg pardon.

Q. In that neighborhood? A. Yes.

Q. And you watched the schooner there. What did you observe? What is the first thing you observed about her?

A. Watching the schooner there she seemed to be all right; nothing wrong with her.

Q. Did you later observe anything that appeared to be wrong?

A. Later I noticed that she was dragging her anchor.

Q. How long was it before you came to that conclusion?

A. About eight o'clock, I should judge; half-past seven or a quarter to eight. I couldn't tell exactly about the time. Between seven and eight o'clock or so.

Q. Prior to that time had she seemed to you to be

(Testimony of F. O. Carlson.)

dragging or going in?

A. No, I didn't pay no attention. I naturally thought she was paying her chain out.

Q. Well, you did observe that she was moving in some?

A. No, I didn't see that she was moving any.

Q. When you did observe she was moving what was done? A. I had orders—

The COURT.—Just a moment. You said you saw she was dragging between seven and eight o'clock, didn't you? A. No, I don't know. [164]

Q. Then you didn't see her moving in at all?

A. No, I didn't see she was dragging her anchor.

Mr. WARREN.—Q. When did you notice that she was?

A. About eight o'clock or so; little before eight.

Q. Having observed that, what did the "Niihau" do?

A. We immediately hove up our anchors again; that is, the captain notified the engineers to get ready with the engine, and hove up her anchor and move away inside.

Q. Up to that time and between that time and when the "Halcyon" had dragged her anchor, did you observe any signals of any sort on the "Halcyon"?

A. None whatever, there were no signals.

Q. Did you at any time that day observe any signals displayed from the Halcyon?

A. There were signals, distress signals hoisted up after the line was in the boat; after we moved inside with the "Niihau."

(Testimony of F. O. Carlson.)

Q. The first or second time?

A. The second time.

Q. Yes. All right. And when the "Niihau" moved to assist her the second time where did she go? What course did she take to get there?

A. She drifted right in. There's an old boiler somewhere on the beach there. She seemed to take a bee-line straight in there.

Q. Which, the "Niihau"? A. The schooner.

Q. Are you familiar with the government map of Hilo Bay? A. Well, pretty fairly.

Mr. WARREN.—I call the witness's attention to Libellee's Exhibit 1 which is on file and ask you, Captain, if you can indicate on this chart of Hilo Bay, the location of the steamer "Niihau" as she lay anchored the first time that night before you went to the assistance of the vessel the first time that night. Step to the chart, please. (Witness steps off stand in front of exhibit.) [165] With this blue crayon will you make a mark on this chart to indicate the position of the "Niihau" as she lay that night when she first appeared to be in trouble?

The COURT.—Make a little cross.

Mr. RUSSELL.—May I ask the witness to be cautioned not to be influenced by any marks that are on the map.

Mr. WARREN.—Yes, pay no attention to any marks that are on the map now. Now, don't pay any attention to other marks.

A. I just want to know where the buoy of the "Enterprise" is.

(Testimony of F. O. Carlson.)

The COURT.—Those other pencil marks have nothing to do with it.

A. It is pretty hard, your Honor, to put down exactly where we were lying that night.

The COURT.—Not exactly; as near as you can.

(Witness marks on exhibit.)

Mr. WARREN.—Will you mark that N-1?

(Witness marks on exhibit.)

Q. Now, will you mark on this map the position of the schooner “Halcyon” that night as she lay when the line was first sent to her?

A. I couldn’t say exactly.

The COURT.—In making a line representing a schooner, you ought not to make a cross but a long line which would be the approximate length of the schooner with a little arrow to show the bows.

Mr. WARREN.—Do you know what direction she was lying from the “Niihau”?

A. She was lying right in here.

Mr. WARREN.—Indicating a line toward where?

A. Into the piles off the breakwater, Waiakea River?

Q. The piles at Waiakea River?

A. There is a line of piles there.

The COURT.—Piles off the breakwater?

A. It is kind of a breakwater. The piles are there to guide the scows.

Q. These were the piles on which side?

A. On the left side; the left side going in. [166]

Q. Left side going in where?

A. Going in towards the River, Waiakea. No,

(Testimony of F. O. Carlson.)

right side. I beg your pardon.

Mr. RUSSELL.—The piles are on the Hilo side of the Waiakea River.

Q. And could you judge about how far the schooner was from the "Nihau" when the line had been put on her deck that night? A. That's pretty hard telling.

Q. How long was the line that you had?

A. The six-inch line were six hundred feet; 120 fathoms.

Q. Now, will you mark on this map the position that the "Niihau" took after the first towing was over when you say that the schooner dropped her anchor and the "Niihau" proceeded a little and dropped her anchors. Mark that as nearly as you can, the "Niihau". A. The course that we took?

Q. The position you were in when you dropped your anchors.

A. When we dropped our anchors?

Q. After that first tow.

A. Not the schooner, just the "Niihau"?

Q. The "Niihau."

A. After we dropped the schooner or before we dropped the schooner?

Q. After you dropped the schooner and when you dropped your anchors.

A. We dropped the anchors about the same position as here now.

Q. N-1. Now when you moved this second time from N-1 and went to the assistance of the schooner, the second time; where did the "Niihau" go then? Can you mark that upon the map, about the position

(Testimony of F. O. Carlson.)

she was in when she sent the line the second time?

A. (Witness marks.) What do those represent there, Mr. Warren?

Mr. WARREN.—Pay no attention to these pencil marks on the map. Mark a short line with an arrow.

(Witness marks on exhibit.)

Mr. WARREN.—We will mark this N-2.

A. No, I beg your pardon, that's not right.

Mr. WARREN.—Any objection to erasing it?

Mr. RUSSELL.—Not at all. (Mr. Warren erases, witness marks anew.) [167]

A. That's pretty near as I can get it.

Mr. WARREN.—Yes. We will now mark that N-2.

Q. Now, with the "Niihau" at N-2, where was the schooner?

A. The schooner must have been in somewhere just about in here.

Q. Will you mark that as closely as you can fix it to your best judgment?

A. (Witness marks.) Can I take that off again?

The COURT.—Yes. Give the length of the ship so that we know which way she's pointing. (Witness marks.)

Mr. WARREN.—Which you will mark H-2. There is no H-1; that's H-2. Now, the "Niihau" having taken that position of N-2 for the second tow, what was done by the "Niihau"?

A. We dropped our anchors.

Q. How many?

A. Two anchors, and paid out ninety fathom chain

(Testimony of F. O. Carlson.)

with each anchor then sent the boat in with the line to the schooner "Halcyon."

Q. In paying out anchor chain, how did your vessel move and what caused her to move?

A. The wind and sea moved her back.

Q. Toward what?

A. Towards the "Halcyon"; towards the beach.

Q. Now, you have mentioned a black boiler on the beach: will you mark the location of that as nearly as you can on this map?

A. Just about in the back of the schooner "Halcyon" here, on the beach; it's pretty hard to tell exactly where.

Q. Mark a cross on the beach indicating the position of that boiler as best you can?

A. (Marks cross.) Is that the beach mark along here.

Mr. RUSSELL.—He's got that marked on the railroad tracks.

A. Then if I get permission to take that off?

The COURT.—Yes. (Witness marks on exhibit.)

Mr. WARREN.—The position of the "Halcyon" is right? A. Yes. [168]

Q. Now, you have again made a cross where you think is more nearly the position of the boiler?

A. Yes.

Q. When the "Niihau" arrived at N-2, you say she sent her line in the boat. How did the boat carry the line over?

A. They slacked themselves in on the line and we have a heaving-line bent on to the six-inch line and

(Testimony of F. O. Carlson.)

they threw it aboard just about two or three boat lengths from the schooner.

Q. The steamer boat? A. The steamer boat.

Q. Now, where was the steamer boat with that line at the time you observed the distress signal go up?

A. About half way between the steamer "Niihau" and the schooner "Halcyon."

Q. Now, how long after, approximately, the flags went up was the line thrown on board?

A. A short time after.

Q. How long?

A. I couldn't say exactly. It wasn't very long.

Q. Approximately how many minutes, more or less.

A. Couldn't be more than may be five or six minutes.

Q. And how much longer before it was made fast?

A. It was about the same amount, I should judge; six or ten minutes or so.

Q. That line having been made fast on the "Halcyon," what did the "Niihau" do?

A. We took and hove her tight and got the six-inch line in.

Mr. RUSSELL.—What?

Q. Got the six-inch towing-line aboard the ship and made it fast. Then we started to heave up our anchors and steamed full speed ahead at the same time.

Q. And at that time what angle or relative position did the schooner have to the shore-line?

A. About heading towards Hilo Sugar Co's mill, the bow.

Q. And do you know whether or not the schooner

(Testimony of F. O. Carlson.)

touched the bottom [169] at all? Could you judge of that as you observed her?

A. I don't know whether she did or not, but she churned up an awful lot of sand where she was.

Q. From the "Niihau," how much of her could you see either one side or the other?

A. Could only see one side, was the starboard side.

Q. How many lines did you put on the "Halcyon" the second time?

A. We put on a six-inch line and seven-inch line.

The COURT.—This is the second time?

Mr. WARREN.—Yes, the second time. How long was it between the time you put on the six-inch line and the seven-inch line? What did you do between times?

A. We hove in the slack of the six-inch line to get the strain on it; then we ran the other line on.

Q. Then what did you do with the schooner?

A. Made fast all lines and got orders from the captain to heave in the anchors and engines going full speed ahead at the same time hauling her off slowly; an awful strain on the lines.

Q. And what else?

A. Then we towed her out and the pilot or harbor-master came along; made a motion. I presume to the captain, and we dropped our anchor. The pilot was aboard the "Halcyon" at that time.

Q. Now, will you indicate on this map the position of the "Halcyon" at the time the pilot motioned to you to stop towing?

(Witness marks on exhibit.)

(Testimony of F. O. Carlson.)

Mr. WARREN.—Which position we will mark H-3. At H-3 what did the schooner do?

The COURT.—That's the schooner?

Mr. WARREN.—Schooner "Halcyon," what did she do then?

A. She dropped her anchor.

Q. How many anchors? Do you know?

A. Just one anchor. [170]

Q. And then what?

A. And then the harbor-master came alongside with the captain of the schooner.

Q. Who is the harbor-master?

A. Captain Mosher.

Q. The same one as you've mentioned as the pilot?

A. As the pilot. He's harbor-master, not pilot.

Q. Came alongside?

A. With a gasolene launch.

Q. From the "Halcyon"?

A. From the "Halcyon."

Q. Then what?

A. Captain Mosher, the harbor-master, said, "This is the captain of the schooner," to Captain Bruhn.

Q. You heard this? A. Yes, I heard it.

Q. What did he say?

A. He said the captain had only one anchor. He said he lost one anchor and, "I only got one left and I'm afraid my chain going to carry away."

Mr. RUSSELL.—What captain said this? Captain of the "Halcyon"? Who said that, the pilot or Captain Olson?

A. Captain Olson as far as I recollect it.

(Testimony of F. O. Carlson.)

Q. What else?

A. And he wanted us to stay by and hold on to him with a line and Captain Bruhn said, "All right," he says, "Let go my line. I've got to change my position." And Captain Bruhn hove up the anchor of the steamer "Niihau" and moved himself little further out and ran the line to the schooner again with a small ship's boat and made her fast on board and we hove her taut aboard the steamer and kept it up.

Q. How any lines that time?

A. Two lines I think it was.

Q. How long did you keep hold of her with those two lines?

A. We kept all that day up to next morning; all night. All that day, all night, up to next morning and the weather quieted.

Q. Now, will you mark on that the position the steamer "Niihau" had as she lay that day and the next night?

(Witness marks on exhibit.)

Mr. WARREN.—Which position we will mark as M-3. Now, I want to [171] ask you at the time the small boat came from the "Halcyon" to the "Niihau" and reported the steamer in distress, what was the condition—

The COURT.—That was the first intimation?

Q. First time, first information. What was the condition of the weather, wind, and sea?

A. Strong wind and heavy; blowing hard and

(Testimony of F. O. Carlson.)

heavy sea piling up; northerly wind and heavy swell running.

Q. Can you give the wind? Northerly, you say. Any substantial difference in direction between the wind and sea?

A. No, the wind and sea came the same direction.

Q. Can you judge of the velocity or force of the wind that night at that time?

A. I should judge blowing between forty and fifty miles an hour; may be heavier than that.

Q. And how long did that condition continue?

A. Continued all that day; all day the next day after we got the schooner off, and all that night.

Q. Between that hour when the small boat came with the first information and the morning hours, say around seven or eight o'clock, or next morning, was there any change?

A. If there was any change it was for the worse; the wind was increasing.

Q. Were there any breakers in the bay then?

A. Yes, it was breaking in the bay and very heavy swell running.

Q. At the time the "Halcyon" was in the position which you have marked on this map as H-2, near that cross representing the boiler, did you observe how many lines of breakers there were between the schooner and the beach?

A. About five or six as near as I could judge.

Q. And outside of the schooner, were there any breakers?

A. Yes, it was breaking. The sea and the break-

(Testimony of F. O. Carlson.)

ers went clear over the schooner and over her deck-load.

The COURT.—Where is that? H-3? [172]

Mr. RUSSELL.—H-2.

Mr. WARREN.—H-2. When the small boat left the "Niihau" for that second time to reach the schooner at H-2, did you observe the small boat as it proceeded and how it managed to get there with the weather conditions?

A. They were slacking themselves away on the line; you see, we paid out all line; they had all the six-inch line in the boat and the four-inch line was bent on, made fast to the six-inch line and we paid out our four-inch line till we thought that it would be enough, then the boat's crew when they got two boat lengths or three, they threw the heaving-line on board; they couldn't get alongside her.

Q. When the "Niihau" began heaving on the "Halcyon" when she was at H-2, that is, the second time, how did she come and how did the "Halcyon" move?

A. We hove in on the line very slow, watching our chance; every time the line got taut, stopped. When the schooner rolled over, she was lying this way on the beach, and churned the sand up; the sand was all churned up around her. We were watching our chance and heaving in very slow on them lines little by little, inch by inch.

Q. Were you doing any steaming on the "Niihau"?

A. Not before we got the six-inch line on board. When we got the end on board then we made fast and

(Testimony of F. O. Carlson.)

then we steamed; hove up the anchors and steamed full speed ahead at the same time.

Q. The six-inch line was the only line you put on?

A. As soon as we got the six-inch line on. That's the second time?

Q. Yes. A. We run the seven-inch line.

Q. Did you begin to steam before you got the seven-inch line? A. No.

Mr. WARREN.—Cross-examine.

Cross-examination.

Mr. RUSSELL.—Q. You are addressed as Captain?

A. I'm captain of the steamer "Kaiulani" at the present time. [173]

Q. And that is an Inter-Island boat? A. Yes.

Q. And when you first received word from the purser who was in the life-boat, had you previously seen flare up lights on the "Halcyon"? A. No.

Q. Did you see afterwards?

A. No, I didn't see any. I didn't have time to look around, I was so busy getting ready.

Q. Now, when you went, when you neared the "Halcyon," how far, do you recall, had you gone before you sent the six-inch line to her?

A. How far we went in with the steamer?

Q. Yes, how far had the "Niihau" gone toward the "Halcyon" the first time?

A. I judge we were about six hundred feet away from her, I should judge, or little over.

Q. Well, you didn't go the full six hundred feet?

A. We were probably about six hundred feet.

(Testimony of F. O. Carlson.)

Q. You were that far from her at the time?

A. Oh, no. We were further away; we were lying to our anchors outside.

Q. So you came within six hundred feet of her?

A. We lift up our anchor and steamed closer in.

Q. How far had you gone?

A. I don't know exactly. We were lying over here at the end of the railroad wharf, eight hundred feet long; we laid outside of the railroad wharf. We were lying to our anchor over here somewhere and we steamed in along here until we got in. She was in here at Waiakea River. We dropped our anchors about here; slacked in gradually.

Q. When you first came was it daylight?

A. It was dark; you couldn't see your hand; it was very dirty and heavy.

Q. How can you tell she was near the piles if it were so dark?

A. We were told by the purser that she was in the mouth of the Waiakea River. [174]

Q. And you were told that when he first came and told you that the "Halcyon" wanted a line?

A. Yes.

Q. Of your own knowledge you don't know?

A. I couldn't say whether she was at the mouth of the Waiakea River or anywhere else, but she was inside the schooner "Ka Moi." She was further inside of the schooner "Ka Moi."

Q. The schooner "Ka Moi" was up toward the end of the railroad wharf?

A. The entrance to the railroad wharf.

(Testimony of F. O. Carlson.)

Q. When you took your first course to the assistance of the "Halcyon," you went on a line practically straight with the railroad wharf?

A. Probably a little bit further over to keep clear of the four breast-line moorings. There is four of them.

Q. That's a course that is usual with some of the Inter-Island boats when they come up to the wharf, that the boats on either side of that wharf?

A. Yes.

Q. And the course that you took was right straight on a course that is sometimes taken by the Inter-Island boats when they come up to take on their loads?

A. We have to come in this way and swing on our anchor on the Hilo side of the wharf when we want to come. That's the way I'm doing it. I come up straight like that and drop my anchor and steam alongside.

Q. And you have seen boats come in this way and come alongside? A. Come right in here.

Mr. WARREN.—Toward the Hilo side of the wharf.

Mr. RUSSELL.—Q. Was that the course that you took the first time you went to the assistance of the "Halcyon"? That was not an unusual course for any steam vessel to take at that harbor?

A. Not in daytime, but it would certainly be at any other time unusually dangerous.

Q. Who was captain of the—

(Testimony of F. O. Carlson.)

A. Captain Bruhn. [175]

Q. And you had been with Captain Bruhn for some time?

A. I had been with him for just about a month.

Q. You don't know how familiar he was with that harbor?

A. I presume he's just as familiar; been running up here for years.

Q. Now, could you see the wharf from where you were when you went in to the "Halcyon"?

A. Couldn't see nothing; couldn't see your hand before you.

Q. How, then, do you know your position as you have indicated it?

A. You could tell by the range light, the red light.

Q. The red light from where?

A. That is on the end of the wharf, the range light coming in.

Q. That is on the sea end of the wharf?

A. Not the sea end, but the shore end.

Q. The shore end of the wharf? A. Yes.

Q. Did you make any particular observation of that red light?

A. That's the one thing we had to go by, sir.

Q. Did you, yourself?

A. Yes, I could see the light there myself, but I was so—

Q. Yes?

A. I was so busy I didn't pay much attention to it; all I could do was attend to my anchors.

Q. You had nothing to do with regard to giving

(Testimony of F. O. Carlson.)

of instructions as to where or how that boat was to steam in? A. No. That is—

Q. You had nothing to do with that? A. No.

Q. Captain Bruhn was attending to that and you weren't watching where you were going?

A. You naturally are; you're mate on board of the ship. If I thought Captain Bruhn got too close to the wharf or any obstruction, I'd notify him.

Q. That would be the duty of the anchor man?

A. That would be the duty of the mate, not the anchor man. [176]

Q. Duty of anybody?

A. Some of them won't do it. It's up to the officers.

Q. They all ought to give notice to the officers of dangerous obstructions?

A. I presume they'd tell.

Q. You say you were so busy you weren't paying any attention?

A. I was tending to my work on the fo'e's'le-head; everything was ready then I was waiting for orders from the captain to let go my anchors.

Q. Now, after this boat left, life-boat proceeded to the "Halcyon" with the six-inch hawser; that is, they had the end of the six-inch line and that was being give to them as they went towards the "Halcyon," is that right?

A. With a four-inch line bent on to the six-inch.

Q. Then when they returned and reported that the six-inch line was fast, you proceeded to go out?

A. No, we had to heave the line taut; we took the

(Testimony of F. O. Carlson.)

line to the windlass, the four-inch line and heaved in on it.

The COURT.—Who are you talking about now?

A. That is the first time.

Q. The line of the vessel?

A. The steamer's anchor.

Q. It was her windlass? A. Her windlass.

Q. Hove on the six-inch line?

A. Not the six-inch line, the four-inch line.

Q. Then they had the entire line in the boat?

A. They had the entire line, the six-inch line, in the boat.

Q. Then you had your four-inch line attached to that and then that four-inch line was helping the boat back?

A. That boat had on the four-inch line so he could get the line fast aboard the schooner.

Q. So you took your end of the six-inch line and put it on the windlass?

A. We took the four-inch line to the windlass.

[177]

Q. And finally got the six-inch line on the windlass too? A. Yes.

Q. How long was that six-inch line?

A. 120 fathoms.

Q. How much did you have on the windlass?

A. Just enough there to make fast to the bit aft.

Q. How much of that six-inch line did you have aboard at the time she was tight?

A. It's pretty hard telling how much there was aboard. It was a dark night.

(Testimony of F. O. Carlson.)

Q. What is your best judgment? Ten fathoms?

A. Oh, we had more than that.

Q. Twenty fathoms?

A. Call it about ten fathoms. Enough to make fast to the bits aft.

Q. So then there would approximately about 110 fathoms of line out to the "Halcyon"?

A. How much?

Q. 110 fathoms?

A. About that, yes. No there wasn't because it took some line to get the turn around the mainmast of the "Halcyon" to make fast.

Q. How many fathoms would be required ordinarily?

The COURT.—For what?

Mr. RUSSELL.—Around the bit of the "Halcyon."

A. I couldn't say exactly. I couldn't say exactly how much it would take to make her fast there.

Q. Now, then, after you had gone out into the— Oh, when you began towing the "Halcyon," how far had you gone before the tow stopped?

A. Oh, we towed her over 800 feet; the whole length of the railroad wharf from the mouth of the Waiakea River up to the end of the wharf. I don't know exactly how long that should be.

Q. What were you doing at the time the tow stopped?

A. After we got her out? I don't understand that question. [178]

Q. At the time that the tow stopped, what were

(Testimony of F. O. Carlson.)

you, yourself, doing?

A. I was on the fo'c's'le-head all the time; never left there.

Q. And of your own knowledge you don't know how that tow stopped? You didn't see it?

A. No, I did not see it.

Q. Did you see the tow-line being hove in?

A. I hove that tow-line myself. I had orders from the captain to heave in the tow-line after I dropped the anchor.

Q. You did that yourself? A. I was right there.

Q. What is that?

A. With the anchor man and the donkey man and myself.

Q. Now, how much line did you heave in?

A. I hove the whole length of the line in. I judge about thirty fathoms were cut off or chaffed off, I couldn't say. I don't know.

Q. So that when you got your line hove in you found that of the 120-fathom line you had perhaps only about forty fathom left.

A. No, we didn't find that out, before the next day. We only know that the line was cut off. We could see that the line was cut off or chaffed off.

Q. All you know is that the line parted?

A. The line was parted, yes.

Q. How much line did you find that you had? You *say didn't* notice until next morning? Now that morning how much line did you have?

A. Which the long piece or the short piece.

Q. The piece that you took out.

(Testimony of F. O. Carlson.)

A. All but what she left on board the schooner.

Q. How many fathoms was that?

A. I didn't measure that. I should judge about thirty fathom; not any more.

Mr. WARREN.—That he lost or had?

A. No, that was lost. About thirty fathom was chaffed off or was left aboard the schooner.

Q. You didn't notice that until the next morning?

A. No. We know the line was short; cut or chaffed off, that's all. [179] But we didn't know how much was lost on that line.

Q. What makes you think it was either cut or chaffed?

A. The line looks like it and the whipping was off it and you could see the ragged end.

Q. That's the same condition that occurs when the line parts without being cut or chaffed off, isn't it?

A. It's a very new line.

Q. Is there anything about that line that would indicate that it was cut or chaffed as distinct from it having parted by reason of any strain?

A. I couldn't say that. I wouldn't answer that question.

Q. Now, during the tow, were you paying any attention to the line?

A. No, I wasn't watching the line. I was forward on the ship on the steamer "Niihau".

Q. What time was this, do you know, when you first got notice, when your steamer first got notice about the "Halcyon" wanting a line?

(Testimony of F. O. Carlson.)

A. When the boat notified that the schooner was ashore asking for assistance? About three-thirty, I should judge. Three-thirty or four o'clock; somewhere around there. Three-thirty. Between three and four o'clock.

Q. Now, how long a time had elapsed from the time that you were first notified of the "Halcyon" wanting a line until she was finally dropped after being towed out from the time that he got a line aboard. How long a time elapsed from the time that you were first notified that the "Halcyon" wanted assistance until the time that you, until the time that she was dropped after being towed out?

A. Between six and seven, I should judge.

Q. It was between six and seven o'clock then, is that what you mean? A. Yes.

Q. When the tow was stopped?

A. When the tow-line carried away. [180-181]

Q. Was it light at that time?

A. It was getting daybreak, yes.

Q. And so that it was sufficiently light to see the schooner, was it?

A. Oh, yes, you could make out the schooner, yes.

Q. And could you see as to whether or not she was holding after the tow parted?

A. As for holding, it seemed to me she was holding. He dropped his anchor immediately and she was lying there at a safe anchorage.

Q. And was there. You don't know whether the schooner had one anchor or two anchors?

(Testimony of F. O. Carlson.)

A. No, I didn't see that, sir.

Q. Do you know whether or not they made fast with the line to any buoy?

A. I didn't pay no attention to that, sir.

Q. And then after the line parted did the "Niihau" remain right there or did she—

A. She steamed a little bit further out towards the north and anchored.

Q. How much farther out?

A. It's pretty hard telling. A safe anchorage; that's as near as I can get to it; away from the schooner.

Q. What do you mean by a safe anchorage away from it?

A. I mean we would swing clear of the schooner; not along of each other; that's a safe anchorage.

Q. Was that the object of the "Niihau's" steaming farther?

A. We have to steam ahead and drop our anchor as I said, at a safe anchorage.

Q. That was the purpose of her steaming further away so that she would be clear of the "Halcyon"?

A. Of the "Halcyon."

Q. And after the "Niihau" was anchored, how far away was she from the "Halcyon"?

A. I couldn't say exactly. I wouldn't like to get myself down how many feet. [182]

The COURT.—You don't have to say exactly if you cannot. Make an estimate approximately.

A. It's pretty hard to do that. I'd rather not answer that question.

(Testimony of F. O. Carlson.)

Q. Well, you mean you'd rather not guess; you are not sure?

A. I'm not sure what the distance we were away from the schooner was.

Q. Is it because you don't remember or that you couldn't exercise very good judgment?

A. I remember well enough at the time we were very busy to get that work done and we didn't pay much attention to the schooner. I had orders to drop my anchor and I dropped it and that's about all and I didn't see how far we were away from the schooner or anything else.

Q. After that did you pay any particular attention to the "Halcyon"?

A. Oh, yes, we paid attention to her we were watching her; we were around on deck, all the officers and crew.

Q. Then there was a time when that gave you a pretty good chance to judge the distance. You say you were watching her then afterwards, after she got, after the "Niihau" got to her anchorage. If you stood there watching the "Halcyon," you must have.

A. I'd rather not answer that question. I wouldn't put myself down.

Q. Was it because you weren't paying particular attention to it?

A. I was paying attention to it, but I didn't pay particular attention how many feet she was away from us.